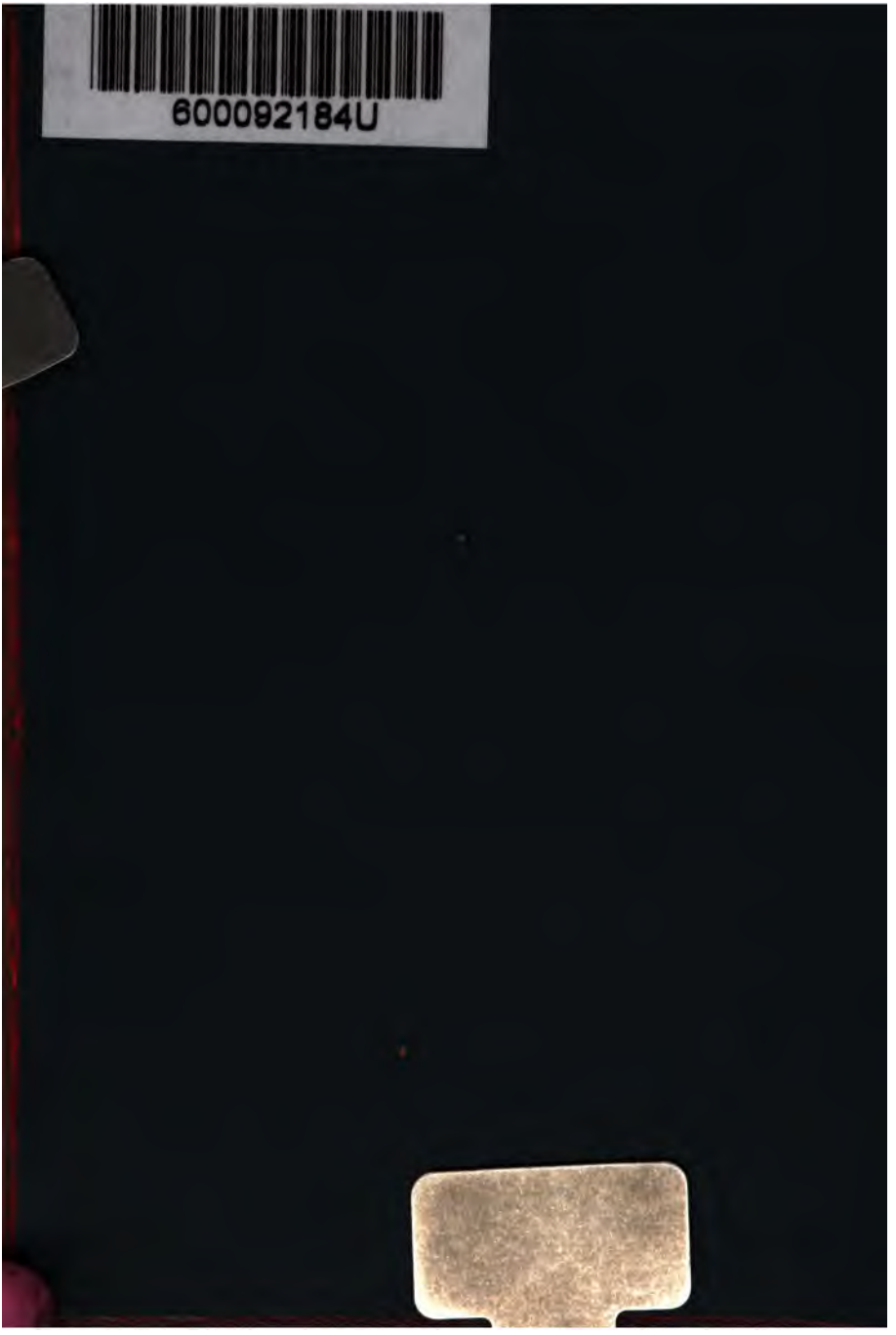
CHURCH POLITY OF ENGLAND



CHURCH POLITY.

THE NATIONAL CHURCH.

HISTORY AND PRINCIPLES

OF THE

CHURCH POLITY

OF

ENGLAND.

BY

REV. D. MOUNTFIELD, M.A.,

Rector of Newport, Salop.

LONDON:
LONGMANS, GREEN, READER, AND DYER.
1869.

NEWPORT, SALOP:
PRINTED BY RICHARD LOWE,
MARKET PLACE.

TO

THE RIGHT HONOURABLE

LORD EBURY

THIS BOOK IS DEDICATED,

AS

A HUMBLE TESTIMONY

OF THE

AUTHOR'S ESTEEM AND GRATITUDE.

CONTENTS.

PART FIRST.

PAGE.

CHAPTER I.—Supremacy of the Jewish kings—Original constitution of the Christian church—The clergy become a sacerdotal caste—The growth of episcopal power—The extinction of the rights of the laity—The Imperial church—The canons of general councils—The Anglo-Saxon church—The supremacy of the priesthood - - - - - - 1

CHAPTER II.—The Reformation—Supremacy of the clergy destroyed—The king declared supreme head of the English church—The Papal supremacy revived by Mary—Elizabeth and her policy - - - - - - - - - - - 41

CHAPTER III.—James I. and the Puritans—Canons of 1603—Laud's attempts to restore sacerdotalism—Canons of 1640—High Commission Court and episcopacy abolished—Presbyterianism established—Cromwell on church polity—The Restoration—The Act of Uniformity—The Test Act—The Revolution—Toleration Act—Improvements in the constitution of the National church—The repeal of Test Act - 62

PART SECOND.

CHAPTER I.—Church and commonwealth one society—The legislative power belongs to the whole church—Parliament legislates for the church - - - - - - - - - 87

PAGE.

CHAPTER II.—Manner of devising church laws—Obedience to them voluntary—Church polity changeable—The English church respects antiquity - - - - - - - - - 131

CHAPTER III.—The Sovereign supreme head of the Church of England—Has no pastoral authority - - - - - 145

CHAPTER IV.—The Sovereign appoints the bishops—Has supreme ecclesiastical jurisdiction—Gives final sentence in ecclesiastical causes—Convenes convocations - - - 161

CHAPTER V.—Clergy and laity—The clergy obey Sovereign and Parliament—Are officers of the Nation—Supported by endowments—Patronage—Clergy not removable by their congregations - - - - - - - - - - - 206

CHAPTER VI.—Bishops—Alone ordain ministers—Inspect the clergy—Have coercive power—Objections to their titles, honours, and endowments considered—The National church condemns not churches because they have no bishops—Archbishops—Receive appeals from sentences of bishops—Are subject to the Sovereign - - - - - - - 223

CHAPTER VII.—Church property—Its object—The persons to be benefited by it—Under control of Parliament—Endowments of public and private origin - - - - 240

CONCLUSION - - - - - - - - - - - 249

PART FIRST.

HISTORY OF CHURCH POLITY IN ENGLAND.

CHURCH POLITY.

CHAPTER I.

SUPREMACY of the Jewish kings—Original constitution of the Christian church—The clergy become a sacerdotal caste—The growth of episcopal power—The extinction of the rights of the laity—The Imperial church—The canons of general councils—The Anglo-Saxon church—The supremacy of the priesthood.

THE principal object of this treatise is to set forth and vindicate the constitution of the National Church of this country. But inasmuch as the Church of England is an institution of ancient origin, reformed in the sixteenth century, and brought to its present state of excellence by subsequent improvements in its constitution, I do not propose to enter immediately upon the consideration of its present constitution. Some acquaintance with its history as well as with the polity of the primitive church is desirable; and therefore I propose to pursue the following method. Commencing with the foundation of Christianity, I shall briefly consider the original constitution of the Christian church, notice some of the changes which took place in its polity

previous to the conversion of the Empire, and under the Christian Emperors; and thence passing to our own country, give a sketch of the ecclesiastical polity of England from Anglo-Saxon to modern times. I think the reader will thus be better prepared to enter upon a consideration of the present constitution of the National church of this country, and better able to appreciate it.

Before I proceed to consider the constitution of the Christian church, it will be useful if I make a few observations concerning the ecclesiastical polity of the Jews; more especially as the reformed Anglican church appeals to the Jewish commonwealth, in justification of the supremacy exercised by the English sovereign in ecclesiastical affairs.

In no respect does the Jewish differ from the Christian church more strongly than in the creation by Moses of a sacerdotal body, who alone were to exercise spiritual functions, whereas the divine founder of the Christian church made no such provision for His society. Moses appointed the tribe of Levi to act as the spirituality of the nation; they alone were to perform the ceremonies of religion, for others to presume so to do was an offence of the gravest character; they were to copy the law, of which they were the guardians, and in doubtful cases, explain it; they were to be generally the learned men, the *clerks* of the commonwealth. The oldest son of a particular family in this sacerdotal tribe was to be the head of the priestly caste. The maintenance of this important body of men

was not left to the zeal or caprice of the people; a liberal endowment was provided, to enable them to devote themselves exclusively to their sacerdotal functions and learned pursuits. Minute directions were given by Moses for public worship; the rites and ceremonies to be performed—the dress of the priests—the duties of high-priest, priests, and Levites—the places, days, and things to be esteemed sacred—all were carefully prescribed. Thus the legislator of the Jews did not leave it to the people to develop their ecclesiastical polity; for that high task the multitude camped round Sinai, not yet settled in the worship of the one God, were unfit. They were children to be preserved from the polytheism of surrounding nations, and taught the first lesson in religion, that there is one God, the maker of all things.

But although there was amongst the Jews a sacerdotal body, and none but those belonging to that body were to perform priestly functions, it is very clear that when the nation settled itself under a king, he was supreme in matters ecclesiastical as well as civil, and the priestly caste, with the high-priest himself, were subordinate to the monarch. This subordination of the priesthood to the supreme magistrate of the nation, has been forgotton by those who have appealed in favour of a Christian priesthood with three orders of bishop, priest, and deacon, to the Jewish church with its high-priest, priests, and Levites. The Jewish priesthood did not enjoy the supremacy in spiritual matters

which has been claimed by the Christian clergy. There is abundant evidence that the kings of Israel were supreme in ecclesiastical as well as civil matters. We find the most religious of them directing the sacred rites, writing hymns to be chanted in the temple service, degrading priests, putting others into their places, teaching and commanding the priesthood, cleansing the temple, destroying idols—in short, exercising unquestioned supremacy in sacred things. Nor were these proceedings regarded as an usurpation; priests and Levites seem to have obeyed without scruple their princes' directions in the discharge of their priestly functions.[1] The principality in church affairs, says Hooker, the priest neither had alone, nor at all, but it was the royal prerogative of kings only.[2] Therefore the claim which has been made for the clergy of the Christian church, that to them alone belong the making and executing of ecclesiastical laws, obtains no support in the practice of a nation which possessed, by divine appointment, that which the Christian church does not possess, a sacerdotal caste. This exercise of ecclesiastical supremacy by the Jewish kings, can neither be regarded as contrary to the divine intention, nor a practice peculiar to the Hebrews. For it was the general persuasion of all nations which had attained some degree of civilization, that rulers were to care for the religious as well as temporal interests of their people. Nor was the doctrine

[1] Jewel's Apology, p. 98. Whitgift's works, iii.
[2] Hooker, book viii, pp. 427, 442, 443.

which now so widely prevails, that rulers may not interfere with religion, broached in this country at least, until the seventeenth century.

Therefore any Christian nation, which has invested its chief magistrate with supreme ecclesiastical dominion over itself, may appeal in justification to the practice of the Hebrew commonwealth; and unless it can be shewn that some law or principle of Christianity forbids a nation so acting, it cannot be said that any divine law is violated.

The Christian church, unlike that out of which it sprung, and most previously existing forms of religion, possessed no priestly or sacerdotal caste. Its divine founder designed it to be confined to no land or race; it was to be a catholic society; wherefore He ordained no sacred places, times, or things; but left His church at liberty to develop its own polity, that His followers might vary it according to the changes of time and circumstances. Such liberty has proved highly favourable to the spread of the Christian religion, and agreeable to the high dignity to which the head of the church designed His followers to be raised. They were all to be kings and priests unto God, all equally consecrated to His service, all placed immediately in communion with Him. To this universal priestly character of Christians, several of the early fathers bear witness.[1] So Justin Martyr writes' "We are the true high priestly race of God, as God Himself testifies, saying, that in every

[1] Jewel, p. 984.

place among the Gentiles, pure and acceptable sacrifices shall be offered to Him." To the same effect Irenœus writes, "All righteous persons have the dignity of priests."[1] So Tertullian, in whose time this grand idea was growing dim, writes, "In itself considered the laity also have the right to administer the sacraments, and to teach in the community. The word of God and the sacraments were by the grace of God communicated to all, and may therefore be communicated by all Christians as instruments of the divine grace. But the question here relates not barely to what is permitted in general, but also to what is expedient under existing circumstances. We may here use the words of St. Paul, 'All things are lawful for me, but all things are not expedient.' If we look at the order necessary to be maintained in the church, the laity are therefore to exercise their priestly right of administering the sacraments only when the time and circumstances require it."[2] Again, "All Christians are now in the position of those who were priests under the Old Testament dispensation. The particular Jewish priesthood was a prophetic type of the universal Christian priesthood; ye are priests, being called for that purpose. The highest priest, the great priest of the heavenly Father, Christ . . . has made us kings and priests unto God and his Father." Again, "We shall be much mistaken if we imagine that what is unlawful for priests is

[1] Giesler's Ecc. Hist., i, p. 170, note 5.
[2] Neander's His., vol. i, p. 267.

allowed to the laity. Are not we laymen also priests? It is written, 'A kingdom also and priests hath He made us unto God and His Father.' The difference between the (sacred) order and the people was determined by church authority, and the honour [thus conferred on the order] was [further] consecrated by the sitting together of its members [in the public assembly]. So when there is no such assembling of the ecclesiastical order, thus thou (ordinary Christian) dost both make the oblation and baptize, and art being alone a priest unto thyself. And when there are but three, though laymen, there is the church . . . If then thou hast the right to act as a priest in a case of necessity, it follows that thou must also be subject to a priest's discipline whenever necessity confers upon thee his rights. . . . God wills that we should be so disposed as to be fit on every occasion to transact His mysteries. One God, one faith, and one discipline (*i. e.* for all Christians)."[1] To the same effect writes Hilary, "That the people might increase and be multiplied, it was conceded to all at the beginning both to evangelize and baptize, and expound the scriptures in the church. But when the church had embraced all places, assemblies were constituted and rulers and other offices were ordained in churches, that no clerk should

---

[1] The above is the reading of Rigaltius E. Cod Agobardi. Tertullian Exhort. ad Cast., cap. vii. Jewel, iii, p. 335. Hooker, i, p. 295. Bingham, book i, cap. v, s. 4. Neander, i, p. 387. Burns's Hist., pp. 183, 184. Giesler, i, pp. 91, 170.

dare, who was not ordained, to take upon himself an officium which he knew had not been committed to him."[1]

The first and most important feature therefore in the polity of the primitive church is the absence of an order of men, to whom, by divine immutable law, belonged exclusivly the performance of the public offices of the church. Each church was a living society, all the members of which performed some part; there was no definite form or constitution at first; every man acted as a priest; the public service was not as yet necessarily controlled by a fixed order of presiding ministers; teaching and praying were open to all; all spoke together, men and women, singing, teaching, praying, manifesting without any rule or order the spiritual gifts with which they were endowed; the Eucharist was part of the chief daily meal; the bread and wine were brought and placed on the table, and every member of the congregation took of the same himself; the whole community co-operated in expelling and restoring offenders.[2] The worship of apostolic times was never intended to be of universal and eternal obligation: indeed it would be impossible to perpetuate it. The absence of a clergy, the want of system, the smallness of the Christian communities, the fervour of the members, the extraordinary

[1] Ambrose S. Hilar Diac, Comm. in Eph., iv. Neander, i, p. 248. Giesler, i, p. 91. Whitgift, i, pp. 218, 412. Jewel, p. 984. Bingham, book i, cap. v, s. 4.

[2] Stanley's Epistle to Corinthians, pp. 203, 216, 235, 236, 290, 292. Hippolytus, pp. 109, 132.

gifts enjoyed by them, render it impossible for the worship of the early church to be made a pattern for future times.

The disorders and inconveniences arising from each Christian exercising his priestly right, and the necessity for an organization, without which no society can long flourish, must have soon led to the appointment of officers to conduct the public services of the church, and administer its affairs. Because, as says Hooker, all that are of the church can not jointly and equally work in the performance of the public religious duties of the church, the first thing in polity required is a difference of persons in the church, without which difference those functions cannot in orderly sort be executed.[1] We have a melancholy instance of the disorders arising from the absence of a regularly appointed clergy, in the Corinthian church, where the grossest irregularities disgraced the most sacred service of the church. Probably similar scandals prevailed in other churches, for the apostles frequently allude in their epistles to disorder as one of the principal evils of the early church. Nor need we be surprized at this; for as yet there was an amount of individual freedom scarcely compatible with good order; there were no venerable customs commanding the respect of the church at large, no recognized organization, no form of government common to all.

Thus a clergy became necessary to the well-being of the church; they belong not to the essence or being of a church,

[1] Hooker, i, p. 350.

for where there are but two or three faithful laymen, there is a church, but to the *well*-being of the church: they differ from the laity, as Tertullian says, by authority of the church, by human order, not by divine right. They exist for the benefit of the church; they are its ministers, not its lords or masters; and therefore could not be designed to exercise absolute authority.[1] They were to act as presiding officers and guides of an ecclesiastical republic, to perform those public religious duties of the body, which for any man to take upon himself to perform would be neither seemly nor orderly.

In consequence probably of the strifes and contentions, and other inconveniences which prevailed, it was found expedient to create in each church a presiding officer endowed with authority over the other clergy, that so might be prevented those disorders which would arise amongst a number of equal agents.[2] This president, or as he was afterwards called, the bishop, was the chief ruler of the community, clergy and laity, and to him was given the power of ordaining or setting apart those who were to act as ministers in the church.[3] Whether at first bishops and presbyters were equal, as some of our divines think;[4] whether the apostles, or one or more churches, for the preservation of order and peace, made one of the clergy

[1] Neander, i, p. 267. Burns's Hist. of the Church, p. 28.
[2] Hooker, ii, p. 249. [3] Hooker, p. 249.
[4] Jewel, iii, p. 439.

in each city chief over the rest; whether this and other arrangements were suggested by the worship of the synagogue, or by the Roman empire, it is not possible, nor material, to determine. A cloud hangs over the early church: the materials are too few and fragmentary to enable us to pronounce positively concerning its constitution. But it is pretty clear that in the second century bishops existed in most churches; and so useful was this order found to be, that it soon became a fact, as afterwards a maxim, that there was no church without a bishop;[1] and as a general rule, no one was accounted a lawful clergyman who had not been ordained by a bishop, who had himself been ordained by other bishops.[2]

Nevertheless, the priesthood of all Christians was for a while maintained; laymen occasionally performed functions now properly restrained to the clergy; laymen were in some cases instrumental in converting heathen nations;[3] even in the third century they were allowed to preach and teach publicly in settled churches;[4] and there long lingered in East and West, customs, which were but the relics of the freedom which had prevailed in early times, when laymen took a more active part in the offices of the church than is

---

[1] Hooker, ii, p. 249. Gibbon, ii, p. 192.

[2] Hooker, ii, p. 308.

[3] Frumentius and Œdesius, laymen, preached in India; the king and Queen of the Iberians preached the Gospel. Soc. Lib., i, c. 15, 16.

[4] Giesler, i, pp. 169, 170.

now generally allowed.[1] The Anglican, as well as the Roman church, still allows in cases of necessity laymen to baptize, and to perform certain parts of the public services, as singing the litany and reading the scriptures.[2]

The increase of the church having necessitated the setting apart of an order of men, known as the clergy, to them was generally confined the executing of the church's laws. But it is very important to observe that they were not designed to exercise absolute authority, nor at the first did they attempt to usurp that supreme power which belonged to the whole body. They were to act as presiding officers, the rulers and guides of an ecclesiastical republic; to conduct the affairs of the church as its ministers not its masters.[3]

But the mass of men seemed incapable of realizing their priestly character; the whole church glided down from the lofty position in which it had been placed by the first preachers of the gospel; as the early enthusiasm of Christians subsided, the laity gradually retired from taking an active part in the administration of church affairs, which they abandoned to the clergy, transferring to them exclusively the priestly character belonging to the whole body. Thus the church assumed a form similar to that of Judaism; and the clergy became a priestly caste, in whom were gradually vested all

[1] Bayle's Dic., v, p. 609. See the Coptic Canons in Hippolytus, pp. 9, 13, 35, 39, 43, 44.

[2] Bennet on the Book of Common Prayer, (1709), p. 94. Johnson's Vade Mecum, i, p. 69.

[3] Neander, i, p. 258.

legislative and administrative powers.[1] As the desire, says Giesler, prevailed to compare the Mosaic institute with the Christian, the idea soon occurred of comparing the Christian officers in the church with the Mosaic priesthood, and of giving them the very same titles; a distinct priestly order was not known in the first century, or during a greater part of the second century; and the idea does not appear distinctly until Tertullian's time; the whole society of Christians formed a royal priesthood; the capacity for instructing and edifying in the assemblies was rather considered as a free gift of the Spirit than as a duty belonging to certain persons:[2] indeed, laymen learned in the scriptures were allowed to preach even in the third century;[3] as the idea of a Mosaic priesthood gained ground, the clergy elevated themselves above the laity; a peculiar mystic influence was ascribed to their ordination, and they appeared as persons appointed by the Supreme Being to be the medium of communication between Him and the Christian world.[4]

The legislative, which is the supreme power, was originally in the whole Christian community, not in their ecclesiastical officers.[5] As it is of prime importance in considering the constitution of a society, to ascertain in

[1] Milman's Latin Christianity, i, p. 353.

[2] Giesler's Ecc. Hist., i, p. 90.

[3] Giesler, i, p. 271. Neander, i, p. 268.

[4] Giesler, i, p. 267. [5] Milman, i, pp. 352, 399.

whom the supreme power,—the power of making its laws or rules—resides, I shall adduce the opinions of some of our most learned writers in support of the above assertion, that the legislative power belonged to, and at first was exercised by, the whole Christian community. The state of the church, says Whitgift, was popular, because the church itself, that is the whole multitude, had interest almost in everything . . . most things in government were done by consent of the people, therefore the state for that time was popular.[1] No divine of the Anglican church writes with such clearness and force on the subject as Hooker. "It is a thing," says Hooker, "undoubtedly natural, that all free and independent societies should themselves make their own laws, and that this power should belong to the whole, not to any part of a body politic, though haply some one part may have greater sway in that action than the rest; which thing being generally fit and expedient in the making of all laws, we see no cause why to think otherwise in laws concerning the service of God."[2] The people, says Mosheim, were undoubtedly the first in authority, nothing of moment was to be carried on or determined without the consent of the assembly; the people chose their own rulers and teachers, or received them by a free and authoritative consent when recommended by others, rejected or confirmed by their suffrages the laws proposed by their

[1] Whitgift's Works, vol. i, pp. 389, 393.
[2] Hooker, book viii, p. 449.

rulers, examined and decided disputes, and exercised all that authority that belongs to such as are invested with the sovereign power.[1] The affairs of the church, says Sir Michael Foster, were administered as those of a voluntary society, at voluntary assemblies of the people and their pastors; at these meetings matters of order and discipline were transacted, and if any new rules appeared to be necessary for the ends of government, they were agreed upon; this was the ecclesiastical legislature of the primitive church.[2]

We must therefore consider it to be a fundamental principle of the Christian church, that the people are its legislature and the clergy its rulers, officers, and ministers, subordinate to the whole body.[3]

Throughout a great part of the second century, each church remained an independent, self-governed ecclesiastical republic, having its own officers and its own laws: each church, says Barrow, did order its own affairs, and govern its own members, without any dependence upon, or subordination to others.[4] In all important emergencies the ultimate decision rested with the whole congregation; no church was chief, no church presumed to interfere with

[1] Mosheim, i, pp. 99, 100.

[2] Examination of the Scheme of Church Power, p. 75.

[3] Hippolytus, p. 132.

[4] Barrow, vol. vii, pp. 285, 302, 486, 487, 488. Giesler, i, p. 263. Mosheim, vol. i, pp. 177, 178. Milman, i, pp. 352, 399. Neander, i, pp. 271—273. Burns's Hist., pp. 54, 55.

another.[1] This system was only suited to the church in its infancy; it could not and did not long continue. When churches lay at great distances from each other, gleaming here and there like stars on a cloudy night, or like islands, separated from each other by intervening tracts of heathenism, the independence of each church was convenient and natural; and so long as the members of each church were few, it was easy to summon all the members, either to make regulations, decide controversies or expel members. But when these insulated churches spread over the surrounding country, until they came into contact with each other, it is obvious that the primitive independency, which had existed amongst the churches, became inconvenient, and a necessity arose for regulations to secure peaceable communion and union between them.

Accordingly from about the beginning of the third century, it became the custom for neighbouring bishops to meet in synods or councils for deliberation on the affairs of the church. These synods, in which the laity were not present, did not at first pretend to any legislative power: but when the fruitful idea of the clergy being a sacerdotal caste was planted in the church, the force of laws was claimed for the canons and decrees of these synods or councils.[2] These assemblies became the chief instrument by which the

[1] Hippolytus, pp. 131, 132.

[2] Mosheim, vol. i, pp. 177—179. Neander, vol. i, pp. 280—283. Giesler, i, p. 261.

bishops were enabled gradually to encroach upon and extinguish the original rights of the laity and clergy;[1] the congregation, which in primitive Christianity played so important a part, disappeared, and legislative as well as executive power fell by degrees into the hands of the bishops. The appointment of their clergy, which undoubtedly belonged originally to, and was exercised by, the laity, was taken by degrees out of their hands; from the third century deacons were no longer nominated by the people; about the middle of the fourth century, the people lost their right of electing their presbyters; and even the election of their bishops was by various limitations almost taken from them.[2]

There is no reason to suppose that the bishops excluded the laity from synods, or that at first there was any design on the part of the bishops of extinguishing the rights of the laity. The absence of the laity from the synods led inevitably to rules or canons being made which were as unfavourable to their interests, as they were favourable to the extension of episcopal power.

As the clergy withdrew more and more into a sacred order of priests, and the bishops rose above the presbyters, the democratic or popular mode of government

[1] Gibbon, vol. ii, p. 194. We find Cyprian representing it as a voluntary condescension on his part to consult his clergy and people.

[2] Gibbon, vol. iii, p. 28, note *a*, and vol. ii, p. 194. Hippolytus, p. 135.

ceased;[1] and the bishops assembled in councils, claimed for themselves, by divine right, authority to give laws to the church; for which purpose, they said, a special divine illumination was granted to them; and their decrees were published as the results of the "inspiration of the Holy Spirit."[2]

So long as bishops were chosen by the communities over which they presided, which continued to be the case long after the legal establishment of Christianity,[3] they might consider themselves as delegates, and claim for the canons made in their councils spiritual validity, binding those who assented to them in the person of their bishop.[4] The bishops, says Dean Stanley, were at the time of the Nicene council, literally the representatives of the Christian communities over which they presided; they were elected by universal suffrage, and considered themselves responsible to their constituents.[5] But when these popular elections ceased, the bishop was no longer the representative of his diocese, and therefore his community could not, by any human right, be bound by his acts. The absence of a human right was, however, amply compensated for in the theory developed by such master-minds as Cyprian and

---

[1] Both Gregory Nazianzen and Socrates complain of the domineering spirit of some of the bishops. Taylor, xiii, p. 515. Barrow, p. 367. Neander, ii, p. 501. Milman, i, p. 399.

[2] Mosheim, i, p. 179. Neander, i, p. 282. Milman, i, p. 353.

[3] Gibbon, i, p. 454. [4] Barrow, pp. 489, 499.

[5] Eastern Church, pp. 69, 144.

Ambrose, that the Divine Head of the church had given to the apostles sovereign power over all Christians, that bishops were the successors of the apostles, and inherited from them, through consecration, supreme power to govern the Christian church.[1]

When, by the conversion of the Emperors, Christianity became the established religion of the empire, the legislative power originally possessed by the Christian people, but now in process of being usurped by the bishops, passed to the Emperor, in whom alone the legislative power of the Empire was vested. This important change, whether an usurpation or not, must have checked the advance of the bishops, who were growing more powerful, and were aiming at exclusive jurisdiction and legislative power in spiritual matters; nor were they content with power in things spiritual, for the great prelates of Rome and Alexandria, Socrates states, grasped at secular power.[2]

It was long established, as a fundamental maxim of the Roman constitution, that the Emperor was the religious as well as civil head of the Empire; therefore upon his conversion he became the supreme ruler of the church, the Bishop of bishops.[3] Jewel and other great divines of our church have sufficiently proved that the Emperor as supreme

---

[1] Giesler, i, p. 257. Milman, i, p. 57. [2] Soc. Lib., vii, c. 7, 11.

[3] Taylor, xiii, p. 535. Gibbon, cap. xx, vol. i, p. 452. Mosheim, ii, pp. 243, 244. Milman, i, p. 353. Stanley's Eastern Church, pp. 51, 127, 196.

head of the church received appeals in matters wholly spiritual, either commissioning others to hear the cause, or sometimes hearing it himself; and gave final sentence, as our Sovereign does, in causes ecclesiastical.[1] The clergy, says Giesler, acknowledged the Emperor to be their highest judge; none ventured to call in question his imperial authority; he appointed and deposed bishops, and directed ecclesiastical affairs; and the imperial laws, even when they touched the church, were received by the bishops with implicit obedience:[2] he decided what doctrine should be considered the catholic doctrine; to this end the Emperors summoned councils, and often stepped in with new decisions; and none but the defeated maintained that matters of faith should not be submitted to the Emperor's decision, but to the bishops.[3]

Some of the greatest lights of the ancient church allowed the Emperor's supremacy as just and natural, especially when exercised in favour of themselves,—as Tertullian, Chrysostom, Jerome, Augustine.[4] So Augustine says, "When the emperors are Christians and right believers, they make laws for the truth and against false doctrines, which laws whosoever shall despise, gets damnation to himself."[5]

---

[1] Jewel, iii, pp. 396, 397. [2] Giesler, i, pp. 422, 423. Barrow, p. 389.
[3] Giesler, i, pp. 422, 423. Barrow, p. 389.
[4] Jewel, pp. 964, 975. Taylor, xiii, pp. 495, 497, 535. Hooker, p. 432.
[5] Taylor, xiii, p. 535. Jewel, p. 1033.

The Emperor was not merely the supreme administrator of church and state, supreme judge in all ecclesiastical causes; he was the source of all laws in the Empire, ecclesiastical as well as civil.[1] And herein lies the difference between the position or relationship of the Emperor to the Imperial church, and that of the Sovereign of this country to the reformed Anglican church: our Sovereign is the supreme head, ruler, and governor of the church, as of the state, but not the legislator. In England, says Lord Hardwicke, the King has but a part of the legislative power; but in the Empire, the whole power of making laws, however originally gained by usurpation, was vested in the Emperor. To the same effect writes Sir Michael Foster, "The whole legislative power of the Empire was really vested in the Emperor; and by this legislature were ecclesiastical as well as civil laws ordinarily made."

We need not be surprised that the Emperors on their conversion assumed the same supremacy over the church that they exercised over the commonwealth. They could not be easily persuaded that they forfeited any of their imperial prerogatives by their conversion; or that any class of men had authority to give laws to their subjects.[2]

Nothing is more certain in church history than that the Emperors, and not the clergy, made ecclesiastical laws. The ground on which our divines, as Hooker and Taylor,

[1] Gibbon, cap. xx, vol. iii, p. 26. Milman, i, p. 377.

[2] Gibbon, cap. xx, vol. iii, p. 26.

defend the practice of the Emperors is this,—the Emperors lost none of their imperial power by their baptism; before their conversion they had power to make laws for a false religion, the same power had they in the true Christian religion.[1] "If then it be demanded," says Hooker, "by what right, from Constantine downward, the Christian Emperors did so far intermeddle with the church's affairs, either we must herein condemn them as being over-presumptuously bold, or else judge that, by a law which is termed Regia, that is to say, regal, the people having derived unto their Emperors their whole power for making of laws, and by that means his edicts being made laws, what matter soever they did concern."[2]

Any one may satisfy himself that laws ecclesiastical were made by the Emperors, and not by the clergy, by looking into the Justinian and Theodosian Codes,[3] or by referring to such of our divines as Jewel, Hooker, Taylor, or Barrow, who have defended the practice of laymen making laws for the church. Jewel proves by a profusion of quotations that kings and emperors have both uprightly and godly "occupied themselves in ecclesiastical matters." He says, "The Emperors made laws touching the holy Trinity, touching the faith, touching baptism, touching the public

---

[1] Hooker, ii, pp. 432—435. Taylor, vol. xiii, pp. 491—498, 516, 536.

[2] Hooker, book viii, p. 432.

[3] Bingham, book ii, cap. xviii, s. 18; book iv, cap. ii, s. 18; book xv, cap. iii, s. 33; book xvi, cap. iii, s. 10.

prayers, touching the scriptures, touching the keeping of holy days," &c., and they were "never for this cause noted either of wickedness or of presumption."[1]

It is quite true that the Emperors frequently made ecclesiastical laws on the advice of the bishops of the church. On important occasions the Emperors summoned general councils, composed usually of bishops; and the canons there agreed upon, when sanctioned by the Emperor, became laws. Until they were confirmed by the Emperor they had no legal force or authority; they were merely the recommendations or suggestions of the bishops present at the council, which members of the church were free to accept or reject. So Justinian generally affirms that his predecessors "corroborated and confirmed by their laws what each council had determined."[2] And this principle that the imperial sanction was necessary to give force to canons was so well understood in Justinian's time that, as Sir Michael Foster has observed, he expressly ordains that the acts of the councils of Nice, Constantinople, Ephesus, and Chalcedon, should have the force of laws within the Empire. "We therefore enact that the holy ecclesiastical rules which have been laid or confirmed by the four holy councils, shall have the force of laws." And again, "It is well said, both by other Emperors, our predecessors, and also by us, that the holy canons must be holden for laws."[3] To this pre-

[1] Jewel, pp. 99, 100, 1030. [2] Taylor, xiii, pp. 586, 587.
[3] Jewel, p. 1033. Taylor, xiii, p. 494. Barrow, p. 355.

rogative of the Emperor, Pope Honorius III bears witness, "The Emperor Justinian hath decreed that the canons of the fathers shall have the force of laws."[1]

I may here remark in passing that the Emperor alone could summon general councils, as the Sovereign alone can convene assemblies of the clergy in the Church of England.[2]

That the canons or decrees of councils have not in themselves the force of laws is the opinion of our most learned writers. Cranmer, and I believe the reformers generally, held that the decrees of councils were not laws till they were enacted by princes; they were "only called canons or rules, nor had they any compulsive authority, but what was derived from the civil sanctions."[3] "I would demand," says Hooker, "what evidence there is whereby it may clearly be shewed, that in ancient kingdoms Christian, any canon devised by the clergy alone in their synods, whether provincial, national, or general, hath by mere force of their agreement, taken place as a law."[4] "The canons, even of general councils, have but the force of wise men's opinions concerning that whereof they treat, till they be publicly assented unto, where they are to take place as laws."[5] Of

---

[1] Jewel, p. 1033.

[2] Socrates Lib., i, c. 5, 22; Lib., ii, c. 16, 29, 31; Lib., v, c. 8; Lib., vii, c. 33. Jewel, pp. 98—100, 963, 992—1006, 1026, 1031, 1033; iii, p. 382. Taylor, xiii, pp. 494—498, 585,—587. Barrow, pp. 332, 341, 355, 356, 366. Gibbon, i, p. 461. Giesler, i, p. 420.

[3] Burnet's Hist. of Reformation, vol. i, pp. 222, 277.

[4] Hooker, book viii, p. 452. [5] Hooker, book viii, p. 453.

little less authority than Hooker, amongst the theologians of the Anglican church, are Jeremy Taylor and Barrow. They both lived after the revival of hierarchical views by the Laudian divines; and Jeremy Taylor, in some of his writings, is at variance with Hooker; but in his Ductor Dubitantium we find his mature views, and they are in no important point dissimilar from those of Hooker, as will be seen from the following passages. He declares in more than one place that the clergy have no temporal power; their commission is "wholly ministerial, without domination, without proper jurisdiction, that is, without coaction . . . being furnished with authority, but no power, that is, an authority to persuade and to rebuke, but no power to command."[1] Consequently they have no power to make ecclesiastical laws. "The ecclesiastical laws were advised by bishops, and commanded by kings; they were but rules and canons in the hands of the spiritual order, but laws made by the secular power . . . These canons, before the princes were Christian, were no laws further than the people did consent."[2] Again, "The synod hath a right of judging, but the confirmation of it into a law belongs to the civil power."[3] "It was never known in the primitive church, that ever any ecclesiastical law did oblige the catholic church, unless the secular prince did establish it."[4] "The

[1] Taylor, xiii, pp. 488, 489, 551—556.
[2] Taylor, xiii, pp. 585, 475, 489, 493.
[3] Taylor, xiii, p. 585.
[4] Taylor, xiii, p. 586.

matter is handled by the ecclesiastics, and the law is established by the secular."[1] "When the Roman emperors made any canon ecclesiastical into a law, it was a part of the civil law, and by that authority, did oblige as other civil laws did, not all the world, but only the Roman world, the subjects of that dominion."[2] "The great prelates of the church, when they desired a good law for the church's advantage should be made, presently addressed themselves to the emperor, as to him who alone had the legislative power."[3] "By their [the emperors'] authority, the conciliary definitions passed into laws."[4] "No article of religion can become a law, unless it be decreed by God, or by the prince; the bishop's declaration is a good indication of the law of God, but the prince's sanction makes it also become a law of the commonwealth."[5] The canons of the ancient general councils, he says, have no authority but what is given them by consent of the rulers of any church.[6] "Excepting the four first general councils, which are established into a law by the king and parliament, there is no other council at all of use in England."[7] Barrow is in entire agreement with Hooker and Jeremy Taylor. "The power of enacting and dispensing with ecclesiastical laws, touching exterior discipline, did of old belong to the

---

[1] Taylor, xiii, p. 587. [2] Taylor, xiv, p. 74.
[3] Taylor, xiii, p. 496. [4] Taylor, xiii, p. 539.
[5] Taylor, xiii, p. 542. [6] Taylor, xiv, p. 47.
[7] Taylor, xiv, pp. 48, 49.—This is a contradiction to Gibson.

Emperor; and it was reasonable that it should . . . Accordingly the Emperors did enact divers laws concerning ecclesiastical matters, which we see extant in the codes of Theodosius and Justinian."[1] On the canons of general councils he observes, "The effectual confirmation of synods, which gave them the force of laws, . . . depended on the imperial sanction."[2] "The power of enacting laws being an incommunicable branch of sovereign majesty."[3] The Bishop of Rome, he says, was a subject of the Emperor, and therefore "could not have a legislative power, . . . but that wholly did belong to the imperial authority."[4] Giesler, one of the most learned of modern ecclesiastical historians, writes to the same effect. He says, the Christian Emperors gave a legal confirmation to the decisions which the bishops pronounced in ecclesiastical affairs;[5] summoned general councils, allowing them to consult under the superintendence of their commissioners, and then gave imperial confirmation to their decrees.[6]

So deeply impressed was the doctrine, that the Emperor was the religious as well as civil head of the Empire, that Charlemagne, when he received the imperial crown, at once became the sole legislator in ecclesiastical matters, the supreme administrator of church and state.[7] We find him

---

[1] Barrow, on the Pope's Supremacy, p. 366.
[2] Barrow, p. 355. [3] Barrow, p. 357. [4] Barrow, pp. 358, 332.
[5] Giesler, i, p. 411. [6] Giesler, i, pp. 420, 421.
[7] Milman's Latin Christianity, vol. ii, pp. 275—277, 288, 293, 299.

presiding over the council or diet of Frankfort, where canons of a mixed character, touching matters purely ecclesiastical as well as secular, were enacted.[1] In the Capitularies of Charlemagne, as well as in the Novels of Justinian, we find laws concerning ecclesiastical as well as temporal matters.

It appears then from what has been said, that the power of making ecclesiastical laws, which did originally belong to the whole Christian community and not to any part of it, passed, when Christianity became the established religion of the empire, to the Emperor, that is, according to the Lex Regia, to the legislature of the Empire; so that all laws in the Empire, ecclesiastical as well as civil, flowed from the same source.

As, therefore, it is a fundamental principle of the Christian church, that the power of making laws belongs to the whole body; so it was an equally fundamental doctrine of the Imperial church, that the head of the Empire was the head of the church, and the legislature of the Empire the ordinary legislature of the Church.

It will be afterwards seen that the constitution of the reformed Anglican, resembles that of the Imperial church; and our divines in defending our church against Roman adversaries, successfully appeal to the Imperial church, proving that in it, as in the Jewish church,[2] laymen con-

[1] For a full account of these canons, see Milman, ii, pp. 299—306.

[2] Hooker, ii, p. 385.

tinually interfered in spiritual matters, making and executing ecclesiastical laws. But our writers sometimes seem to suppose that the supremacy of princes in spiritual matters, within their respective dominions, was by a divine right, not a human gift. This error led them to argue, that as the Emperors were supreme over the church in the empire, therefore our Sovereigns *must* be supreme over the Anglican church; and as the Jewish kings and Christian Emperors made ecclesiastical laws, or converted the canons of the clergy into laws, by confirming them; therefore our Sovereigns could make ecclesiastical laws and give to the canons of the clergy the force of laws, which they cannot do, for there is, we know, no Lex Regia in this Realm; our Sovereigns cannot make laws, they can only administer them.[1]

I have thought it necessary to give at some length the opinions of our principal divines and others on the force of the canons made by the general councils summoned by the Emperors, because we frequently hear these canons quoted as though they were laws binding for ever and universally the Christian church. Whereas they bind no one now; they bound none but the subjects of the Empire, and their legal force was from the Emperor, who alone had power to make laws ecclesiastical for his subjects. How the legislative power was originally gained by the Emperors is quite

[1] Even Hooker speaks of our kings having power to make ecclesiastical laws, according to the pattern of the Jewish kings. Hooker, ii, p. 385.

immaterial: it was an usurpation, but defended on a free and rational principle, namely, that the people had vested their legislative power in the Emperor. The canons of the general councils no more bind us than do our ecclesiastical laws bind the people of France; for neither the Emperor nor the bishops had power to make laws for us.

Before I proceed to consider the method in which ecclesiastical laws were made in this country on its conversion to Christianity, I shall interpose a few observations on the rise or origin of National churches.

When Christianity was first introduced into this or any other country, they who embraced it formed a society separate and distinct from the commonwealth, having power to make their own laws in matters ecclesiastical, and administer their own affairs.[1] But when all the members of the commonwealth became members of the church, then the commonwealth and the church were no longer two, but one society. For as Hooker, who has discussed this subject with admirable force and clearness, says, if all in the commonwealth believe, how should the church remain by personal subsistence divided from the commonwealth?[2] "If the commonwealth be Christian, if the people which are of it do publicly embrace the true religion, this very thing doth make it the church."[3] "The church," says Jeremy Taylor, "is not a distinct state and order of men, but the

[1] Hooker, ii, p. 434.

[2] Hooker, ii, p. 389. [3] Hooker, ii, p. 450.

commonwealth turned Christian."[1] There was no compact, no commercial transaction,—the church bartering with the state, and yielding up spiritual liberties for earthly dignities and advantages; but by the conversion of the Nation to Christianity, the commonwealth and the church became personally one society.[2] Thus the English people or Nation became the Church of England; and as the good of the church is the common concern of all its members, the people provided for their spiritual, in the same manner as for their temporal exigencies.

The formation of National churches, such as the Anglican, was almost inevitable, and most of the errors which exist, and originate the aversion towards our National church, spring from ignorance or a forgetfulness of the circumstances under which this and other countries became Christianized. If we remember that Christianity made its appearance in the West, in the same outward form, flowing generally from Rome,—that it came with the strong organizing tendency of that home of law and order,—that the Jewish form which it had assumed was not ill-adapted to the tutoring of barbarous nations, who readily transferred to the Christian clergy the honour and reverence with which they had been accustomed to regard their ancient priesthood,[3]—that the dormant intelligence of men preserved the uniformity of religion, by rendering the many willing to follow a few,

[1] Taylor, xiii, p. 536.
[2] Hooker, book viii, p. 389.
[3] Mosheim, ii, pp. 222.

making the laity content with remaining in a state of religious pupilage to the clergy, and so hindering the formation of sects,—we shall understand how National churches arose, and perceive that they were the inevitable result of the progress of Christianity.

There was nothing to hinder the Nation, all of whose members professed the same form of Christianity, making their ecclesiastical rules or laws, at the same time, and by the same machinery, that they make their temporal laws. When the great Council of the Nation met to consult for the welfare of the Realm, there was no reason why they should not at the same time make laws to bind them as churchmen as well as commonwealth-men. No objection can be urged against their doing this, unless we hold one of these three theories,—first, either the hierarchical, that the making of church laws belongs only to the clergy, and therefore the the great Council or Parliament of the Nation were usurping a power which did not belong to them, they being chiefly laymen: second, or the congregational, that the Christians of a country may not assemble to make ecclesiastical rules: third, or the utilitarian, that Parliament is only concerned for the temporal welfare of the Nation. It had not yet entered into men's minds, that a king and his nobles and wisest men, assembled in council, were to make no provision for the highest, the moral and religious, interests of the Nation.

Thus National churches arose; there was no alliance or

union entered into, no compact made between two separate and distinct bodies; on the extinction of Paganism, when the people became Christian, the commonwealth became the church. The expression 'Church and State' has fostered the misapprehension that there is an alliance between two independent societies, whereas in England, the church and the commonwealth are the same society under different names,—a commonwealth as it lives under some form of secular law and rule, a church as it lives under the law of Christ.[1]

I now proceed to consider the practice of this country on its conversion to Christianity, in the making of ecclesiastical laws. According to the preceding observations, on the extinction of heathenism, the people of England became the Church of England, or as it was called, the English church.[2] When therefore the people, or their representatives and rulers, met in the great Council of the Nation, they dealt with all matters, making ecclesiastical as well as civil laws, of which the laws of Ethelbert, Withred, Alfred, Edward, Athelstan, Edmund, Edgar, and Canute, are proofs. In these laws we find constitutions touching matters purely spiritual, mingled with civil constitutions, all being made by the ordinary legislature, the great Council or Parliament of the Nation.[3] The clergy were, I believe, generally admitted to a share in the legislature;

[1] Hooker, ii, p. 389. [2] Bede, pp. 40, 41.
[3] Jewel, pp. 902—905, 974.

but the notion of a separate spiritual legislature to which appertained the making of ecclesiastical laws was in Anglo-Saxon times unknown.[1] It was considered that it was the province of the Witenagemote to make laws for the spiritual as well as temporal wants of the nation. Wherefore it was ordained by king Alfred, that the great Council of the Nation "should meet twice in the year, or oftener, if need be, to treat of the government of God's people; how they should keep themselves from sin, should live in quiet, and should receive right."[2] The jurisdiction of Parliament, says Lord Coke, is so transcendent that it maketh, abrogateth, repealeth, &c., laws, statutes, acts, and ordinances concerning matters ecclesiastical, capital, common, civil, martial, &c.; the conclusion of that great Parliament held by king Athelstan at Grately, runs thus:—"All this was enacted in that great synod or councell at Grately, whereat was the Archbishop Wolfehelme, with all the noblemen and wise men, which king Athelstan called together."[3]

Our simple ancestors, when they laid the foundations of the English constitution, knew nothing of the nice distinction originated by the clergy in after times to carry out their deep policy of extinguishing the rights of the laity, that the great Council of the Nation must only deal with things

---

[1] For the practice of the Lombards, Ostrogoths, &c., see Milman's Latin Christianity, vol. i, pp. 377—385, 399. Mosheim, ii, pp. 244, 245.

[2] Coke's Institutes, 110*a*. Blackstone's Comment., vol. i, p. 147.

[3] Coke's Institutes, 110*a*; note 217.

temporal, leaving to the priesthood the making of laws ecclesiastical. Jewel, defending the practice of our Parliament making ecclesiastical laws, says, "Our godly forefathers, the princes and peers of this realm, never vouchsafed to entreat of matters of peace or war, or otherwise touching the common state, before all controversies of religion and causes ecclesiastical had been concluded."[1] A similar practice prevailed, I believe, in the various northern kingdoms which sprung from the ruins of the Empire. In all the Teutonic kingdoms, the bishops as they rise into the rank of nobles, appear in the Witenagemote as counsellors of the king, and co-legislators with the temporal lords; by this mixed assembly laws ecclesiastical as well as civil were made.[2] So the Barbaric codes were enacted in mixed assemblies,—the king, nobles, and bishops; at which assemblies civil and religious matters were discussed.[3]

There are however, before the conquest, unmistakeable signs of the approaching sacerdotal despotism. The bishops, by their intellectual and moral superiority, are exercising a powerful and often a beneficent influence in all legislation, as in the Visigothic kingdom of Spain. Contemporaneous with the great Council or Parliament of the Nation, we find purely clerical assemblies, at which laws of minor importance, chiefly relating to the behaviour of the clergy

[1] Jewel, pp. 904, 905.

[2] Mosheim, ii, pp. 244, 245. Milman's Latin Christianity, vol. ii, p. 99.

[3] Milman's Latin Christianity, i, pp. 378—385.

were made;[1] so that whilst the Witenagemote, or Parliament, as yet enacts church laws, the clergy are making an approach to the claim,—that to the priesthood alone belong legislative and executive power in spiritual matters.

The incorporation or identity of Church and State, which had existed in Anglo-Saxon times, was destroyed under the Norman kings. The first step in this direction was the separation of the ecclesiastical from the civil court, by William I. "In the times of our Saxon ancestors," says Blackstone, "there was no sort of distinction between the lay and the ecclesiastical jurisdiction; the county court was as much a spiritual as a temporal tribunal; the rights of the church were determined and asserted at the same time, and by the same judges, as the rights of the laity."[2] But it was now laid down that all ecclesiastical causes and persons should be solely and entirely subject to ecclesiastical jurisdiction only; it was not to be allowed that the profane laity should judge the consecrated clergy, or touch sacred things. This step was followed by another in the same direction of a more fatal character,—the erection of a separate spiritual legislature. "Rapin," says Sir Michael Foster, "is of opinion that the clergy did not presume to treat of ecclesiastical affairs as a separate body, till the Papal power in England arrived to its utmost height under the latter kings of the Norman race, or rather until the

[1] Milman, vol. i, pp. 377—385, 399. Sir Michael Foster, p. 78.
[2] Blackstone's Comment., vol. iii, p. 61.

reigns of Henry II, and his immediate descendants; and I believe he is not mistaken." The body known as Convocation, which still exists under its ancient name, though deprived at the Reformation of its usurped powers, seems to have originated in Stephen's reign, and is said to have received its present form from Edward I. Henceforward, until the Reformation, all ecclesiastical matters of a purely spiritual character were managed solely by the clergy. The chief prelate of the church, as the legate of the Pope, who claimed to be supreme sovereign of the whole Christian church, summoned at his pleasure the clergy, who made canons, which were published by the metropolitan as laws binding clergy and laity.

The clergy had now possessed themselves of the power of making and executing ecclesiastical laws; and we may, therefore, regard the hierarchical system as prevailing in this country from the twelfth century to the Reformation, although in theory the supremacy of our kings over the clergy existed long before the Reformation, and there are instances of its exercise. The idea, early planted in the Christian church, that the clergy were a sacerdotal caste, had been unfolding itself through ten centuries, and expanded in its full maturity in the mediæval church.

Wherever the Roman or hierarchical system prevails, it must destroy the incorporation or identity of church and commonwealth, for the theory held by the writers of the Roman church, as stated by themselves, is this,—The

church and the commonwealth are two separate and distinct societies; spiritual things belong to spiritual persons, that is, to the clergy; civil things belong to civil persons; the church has its prelates, councils, canons, judgments; the commonwealth or state has its princes, lawgivers, laws, and tribunals; and these are wholly separate; when Nero ruled in Rome, the apostles governed the church, and so ought their successors the bishops, whether the church be amongst heathens or with Christians; but when the commonwealth is Christian, then it is the duty of the magistrate to execute the decrees of the clergy, to see that the laws made by the clergy are put in practice, but not to make any laws or orders in ecclesiastical things:[1] in short, the Sovereign and Parliament have power to cause ecclesiastical laws to be made and observed, but the clergy alone can make and execute them, or commission others to do so.

One of the effects of the Roman or hierarchical system was to degrade the legislature of the country into a mere temporal court, whose province was to make provision only for the temporal wants of the nation, thus anticipating a modern doctrine; or if the legislature interfered with religion, it was only to enforce the decisions or wishes of the clergy. As the Nation was thus forbidden to exercise legislative power in ecclesiastical matters, the Sovereign was robbed of half his jurisdiction. In ecclesiastical things,

[1] Jewel, pp. 970, 978. Whitgift, vol. i, p. 23; vol. iii, pp. 160, 297, 299, 312. Hooker, ii, pp. 387, 389.

says Harding (the defender of Rome) to Jewel, he was to perform the commandments of the clergy, to act as they teach; so that in fact, in spiritual things, he was, as has been asserted, nothing more than the bishops' hangman.[1]

Our Sovereigns and Parliament made some useless attempts to check the encroachments of the clergy, who were not content with supremacy in ecclesiastical matters, but seemed to desire nothing less than to be masters of the realm and owners of every foot of soil.

Whatever compensating advantages may have resulted to Christendom, through the supremacy of the priesthood, and however well-adapted the hierarchical system may seem to be for nations, whose intelligence is either dormant, or naturally low, it certainly reduces the laity to passionless machines in spiritual matters, divests them of their priestly prerogatives, converting the church from an ecclesiastical republic, all of whose members are invested with a sacerdotal character, into a society whose members must obey without question the commands of a priestly caste.

No doubt the priesthood achieved noble triumphs; their moral and mental superiority, their self-denial, their piety, their benevolent labours, well deserved the reverence with which people at one time regarded them, and justified the power with which they were invested. Continually recruited from all ranks of society, the priesthood presented, as Coleridge remarks, the only breathing hole of hope, relaxing

[1] Jewel, iv, pp. 970, 978.

the iron fate by which feudalism predestined every man to be lord or vassal; it tutored barbarous nations and awed brute force; it fostered the class of free citizens and burghers; its churches and monasteries were asylums for the fugitive vassal and oppressed franklin; it collected freeman detached from the land into communities which grew into towns and cities; it waged a holy war against slavery and villenage so successfully, that when villenage was virtually abolished by statute in Charles II's reign, there was scarcely a pure villein left;[1]—these were its triumphs. But three centuries of supremacy corrupted the clergy; and their vices alienated from them the affections and reverence which, as benefactors of the Nation, they had deservedly enjoyed.

[1] Blackstone, ii, pp. 96, 97, Coleridge, pp. 74, 75.

CHAPTER II.

THE Reformation—Supremacy of the clergy destroyed—The king declared supreme head of the English church—The Papal supremacy revived by Mary—Elizabeth and her policy.

THE clergy, who in the eleventh and twelfth centuries were almost masters of the Realm and made kings tremble and obey, were in the sixteenth century detested by the Nation, who cried aloud for a Reformation. The clergy were most ignorant; unfit men were made priests; simony was common; unworthy men and even boys received valuable benefices, and left their duties to be performed by foolish, often wicked men, who cared only for filthy lucre; they were merchants, usurers, covetous, hunters, common players, haunters of taverns, lewd, lovers of dress, spending their revenues in feasting and banqueting, in keeping dogs, in excess and wantonness, in costly buildings, in sumptuous apparel and pomp.[1] So when Henry VIII entered into a contest with the clergy, to wrest from them their supremacy, the Nation regarded his proceeding with approval, and he came out of the contest victorious.

[1] Colet's Sermon, (1511).

I now proceed to consider the changes effected at the Reformation, by which the Anglican church was brought into its present form. According to the doctrine which for centuries had been instilled into the minds of the laity, any reformation of church abuses which might be required, must be effected by the clergy. The Prince and his Parliament were to care for the commonwealth; the clergy for the church. One of the most fatal consequences of this theory is, that it renders a reformation of church abuses almost hopeless. To expect a corrupt clergy to reform the abuses and drive away the errors which had been the source of their gains, and the foundations of their power, is as reasonable as to expect "Scribes and Pharisees to repair the Temple of God and convert it from a den of thieves to a house of prayer." Yet the nation was to wait until the clergy were pleased to effect a reformation. But, as Jewel says, suppose the abbots and bishops, the priests, and prophets, and elders, have no knowledge and are corrupt, and will not reform themselves or the church; who then is to do the work?[1] Our ancestors thought the English nation, through its Sovereign and Parliament, had authority by the ancient laws and practice of this realm, and of other Christian nations, to manage their ecclesiastical affairs without the consent or advice of Pope, or any general council, or of the clergy of this realm.

The first step, therefore, towards a reformation of the

[1] Jewel, pp. 913, 979.

church must be to destroy the supremacy of the clergy in spiritual things. No tame monarch sat on the throne of England; the power of the crown in the time of our Tudor princes was at its height; the nobles could no longer thwart the king, and the commons had not yet risen to power. Thus the Reformation in England appears in its earlier stages as a struggle between the Sovereign and the priesthood. Henry VIII was aware that Parliament would support him, for they had passed several acts against some of the most exorbitant abuses of the clergy, and had severely reflected on their vices and corruptions.[1] He resolved, therefore, to grapple with the clergy, and wrest from them the power which they had so grievously abused. They were accordingly informed that the king intended to proceed against them for breaking the statutes passed in former reigns against Papal encroachments.[2] The clergy were alarmed, pleaded ignorance and the king's connivance, which was most true; but the Court of the King's Bench proceeded to pronounce sentence, and all the clergy of England were pronounced out of the king's protection, and liable to the heavy pains of the statutes against provisors. The clergy terrified at the ruin before them, were then told that they might purchase their pardon upon a reasonable composition and a full submission to the king as their head. They knew the spirit of the man with whom they had to deal, and soon agreed to the sum: one hundred thousand pounds

[1] Burnet, vol. i, p. 129. [2] Burnet, vol. i, p. 167.

was to be their ransom.[1] But the submission was a matter not so easily settled; before the king would pardon them they must acknowledge him to be the only supreme head of the church and clergy of England, and yield up the power so long enjoyed by them of enacting ecclesiastical laws. Conferences followed between the king's judges and the archbishop with the clergy; for several days the royal supremacy was discussed; some of the bishops were sent to the king to soften him, but the king would not speak with them, and they were told by the judges that the king's pardon could not be settled until they agreed to the king's supremacy. The archbishop proposed a treaty; but the king would admit of none. At last a form was agreed on and offered by the archbishop to the clergy; all were silent; upon which he said, "Whosoever is silent seems to consent;" one cried out, "Then we are all silent." Thus in sullen silence the clergy received the Sovereign as their supreme head; and the power of the hierarchy was broken.[2]

The submission of the clergy was brought into Parliament, and the statute known as the Act of Submission passed. (25 Henry VIII, c. 19).[3] This famous act deprived the clergy of their legislative power in ecclesiastical matters, and has been esteemed one of the most effectual restraints upon the clergy. It placed the clergy under the control of

[1] Burnet, vol. i, part i, pp. 167, 176; vol. iii, pp. 76—78, 116.
[2] Burnet, vol. i, part i, pp. 176, 177; vol. iii, pp. 76, 77.
[3] Burnet, i, p. 232.

the Sovereign, and prevented them offering any combined opposition to the reformation of the church.[1] It reduced the clergy to their proper position as the ministers and ecclesiastical officers of the Nation subordinate to the head of the Nation, to give their advice or assistance on church matters only when the Nation, through its Sovereign, might ask for it.

But the Act of Submission is by no means a perfect measure. For it left to the clergy power to make canons with the Sovereign's assent; which canons if confirmed by the crown, and not contrary to the king's prerogative, the customs, laws, or statutes of this realm have force. It was, therefore, in the power of the Sovereign and clergy to make some regulations without the concurrence of the nation; and this power has been occasionally exercised. It has, however, been firmly established, that the laity of this country are bound by no laws, to which they have not given assent by their representatives in Parliament.

By destroying the supremacy of the Pope and clergy, and asserting for himself and Parliament the supreme power in the church, that is, the legislative power, Henry VIII made the Reformation effected in the doctrines and services of the church, by his successor, easy. The clergy offered no active opposition; when an opportunity occurred, they manifested their aversion to the reforms effected by Cranmer and his associates, and gratified their malice; but they knew that

[1] Burnet, iii, p. 116.

now opposition was useless, and were very sensible of the little regard which was paid to their sentiments or wishes, for we find them several times petitioning that they should be admitted to the House of Commons. This request deserved more attention than it received from Edward VI, Elizabeth, or James I; for it would have been wise, when Convocation was deprived of its legislative power, to have admitted some of the clergy, as they requested, into the House of Commons; and this would have been only restoring the constitution to the state in which it was before the rise of a separate legislature for ecclesiastical affairs.

Blackstone has mentioned another defect in the Reformation, to which I shall only allude, of the same kind as the foregoing. He says, "Had the spiritual courts been at this time [the Reformation] re-united to the civil, we should have seen the old Saxon constitution, with regard to ecclesiastical polity, completely restored."[1] Undoubtedly this separation was the cause of much oppression in the reigns of Elizabeth, James I, and Charles I; but it is obvious that so long as the laity have the legislative power they can prevent ecclesiastical tyranny. Nor is any oppression practiced in our ecclesiastical courts; they are regulated by Parliament, presided over frequently by laymen; and above all, the Sovereign is the supreme judge, to whom appeals lie from their sentences. So that the existence of ecclesiastical courts is not injurious to the

[1] Blackstone, vol. iv, p. 429.

church, and in recent times their sentences in questions touching doctrines have been notoriously favourable to liberty of thought and speech.

Amongst the defects of the Reformation, Bishop Burnet places the want of a code of laws for the government of our ecclesiastical courts.[1] By the Act of Submission it was provided that there should be a commission, half divines, half laymen, to revise the canons, and until this correction of the canons was made, all such were to continue in force, except those that were contrary to the laws and customs of the realm, or to the damage of the king's prerogative.[2] But Henry VIII seems not to have been anxious to have such a code; Edward VI earnestly pressed the bishops, that since the papal authority was cast out, the papal decrees should no longer have authority in the bishops' courts, but that another body of laws should be compiled and confirmed by Parliament.[3] Commissioners were appointed, but for some cause this desirable reform was not effected. Elizabeth, like her father, seems not to have been anxious for a revised body of ecclesiastical laws, and perhaps for the same reasons. By the Act of Submission those canons were to continue in force which were not contrary to the laws and customs of the realm, or to the damage of the king's prerogative; and as it lay with the king's judges to determine when they were damaging to the prerogative, Henry

[1] Burnet, iii, p. 484. [2] Burnet, i, pp. 232, 233.
[3] Burnet, iii, pp. 304, 305.

VIII and Elizabeth, and their advisers, may have thought the power of the crown in ecclesiastical matters was greatly increased by leaving the canons on such a footing. But it certainly does seem inconsistent for the ecclesiastical courts of the reformed church to be regulated by papal canons; although it must be understood that all the force which any canons possess in this realm is from Parliament, or from being received and admitted by our nation, for no prelate or prelates, or general council can give laws to the meanest subject in this realm.

The accession of Mary revived for a short time the supremacy of the Pope. The clergy soon displayed their suppressed animosity towards the Reformation; they prayed, amongst other things,—that all heretical books[1] should be burnt,—that the statutes against heretics be revived,—that the clergy be restored to their former jurisdiction,—that the ancient liberty, authority, and jurisdiction be restored to the Church of England according to the Magna Charta,—that the Act of Submission and all other late statutes in derogation of the liberties and jurisdictions of the church be repealed,—that the church be restored in integrum, and that no layman might exercise ecclesiastical jurisdiction.[2] From this petition it is plain that the clergy desired nothing less than the restoration of the hierarchical system; for

[1] Cranmer's Book against the Sacrament of the Altar, the Schismatical Communion Book, the Ordinal, &c.

[2] Burnet's Records, ii, part ii, pp. 364—371.

when they pray that the ancient liberty, authority, and jurisdiction be restored to the Church of England, and no layman exercise ecclesiastical jurisdiction, they mean that exclusive power in making and executing ecclesiastical laws should be vested in the clergy, whom they designate in the true hierarchical spirit, the church. Parliament gave effect to the wishes of the clergy, and an Act was passed repealing the late statutes and bringing the church into the state in which it was in the twentieth year of Henry VIII. The hierarchical system, which had been utterly destroyed by that king and Edward VI, was thus restored. That great barrier against hierarchical schemes,—the royal supremacy —was removed; it was declared that the title of supreme head of the church never of right belonged to the crown, and that laymen can enjoy no ecclesiastical jurisdiction, neither the king over the whole realm, nor other laymen over particular churches. Thus the clergy again became possessed of exclusive jurisdiction and legislative power in ecclesiastical matters.

Queen Elizabeth has the honour of settling the Church of England on its present basis, for no very material alteration has been since made in its constitution. The conduct of this Queen of glorious memory, in a most critical period of English history, can never be too highly praised. To her prudence and firmness, to the wisdom and foresight of her counsellors, to the good sense of h Parliament, we owe a church, reformed, thorough

church and the commonwealth are two separate and distinct societies; spiritual things belong to spiritual persons, that is, to the clergy; civil things belong to civil persons; the church has its prelates, councils, canons, judgments; the commonwealth or state has its princes, lawgivers, laws, and tribunals; and these are wholly separate; when Nero ruled in Rome, the apostles governed the church, and so ought their successors the bishops, whether the church be amongst heathens or with Christians; but when the commonwealth is Christian, then it is the duty of the magistrate to execute the decrees of the clergy, to see that the laws made by the clergy are put in practice, but not to make any laws or orders in ecclesiastical things:[1] in short, the Sovereign and Parliament have power to cause ecclesiastical laws to be made and observed, but the clergy alone can make and execute them, or commission others to do so.

One of the effects of the Roman or hierarchical system was to degrade the legislature of the country into a mere temporal court, whose province was to make provision only for the temporal wants of the nation, thus anticipating a modern doctrine; or if the legislature interfered with religion, it was only to enforce the decisions or wishes of the clergy. As the Nation was thus forbidden to exercise legislative power in ecclesiastical matters, the Sovereign was robbed of half his jurisdiction. In ecclesiastical things,

[1] Jewel, pp. 970, 978. Whitgift, vol. i, p. 23; vol. iii, pp. 160, 297, 299, 312. Hooker, ii, pp. 387, 389.

says Harding (the defender of Rome) to Jewel, he was to perform the commandments of the clergy, to act as they teach; so that in fact, in spiritual things, he was, as has been asserted, nothing more than the bishops' hangman.[1]

Our Sovereigns and Parliament made some useless attempts to check the encroachments of the clergy, who were not content with supremacy in ecclesiastical matters, but seemed to desire nothing less than to be masters of the realm and owners of every foot of soil.

Whatever compensating advantages may have resulted to Christendom, through the supremacy of the priesthood, and however well-adapted the hierarchical system may seem to be for nations, whose intelligence is either dormant, or naturally low, it certainly reduces the laity to passionless machines in spiritual matters, divests them of their priestly prerogatives, converting the church from an ecclesiastical republic, all of whose members are invested with a sacerdotal character, into a society whose members must obey without question the commands of a priestly caste.

No doubt the priesthood achieved noble triumphs; their moral and mental superiority, their self-denial, their piety, their benevolent labours, well deserved the reverence with which people at one time regarded them, and justified the power with which they were invested. Continually recruited from all ranks of society, the priesthood presented, as Coleridge remarks, the only breathing hole of hope, relaxing

[1] Jewel, iv, pp. 970, 978.

they had been into submission, by the threat of præmunire; Parliament revived most of the statutes of Henry VIII and Edward VI; the supremacy over the church was restored to the crown; and the Book of Common Prayer, prepared by a few learned divines and approved by the Queen, was confirmed by Parliament.

These measures were opposed by all the bishops in the House of Lords; who insisted that the laity ought not to meddle with matters of religion; and every bishop, except Kitchen of Llandaff, refused the oath of supremacy.[1] If they thought to alarm the Queen, and encourage the clergy to follow their example, they were mistaken; Parliament marched resolutely on "in spite of the opposition, and gainsaying, and disturbance of the bishops,"[2] who would "not abandon the Pope;"[3] the clergy who had complied with every change made in the three preceding reigns, complied once more, and not two hundred seceded from the National church.[4]

The Nation on the whole was satisfied with the Reformation thus effected, whatever might be the feelings of the clergy. The people, says Jewel, were well disposed towards religion; if inveterate obstinacy was found anywhere, it was altogether among the priests, those especially who

---

[1] Jewel, pp. 902—904. Strype, i, pp. 58, 60, 77.

[2] Jewel to Martyr, April 14th, 1559.

[3] Jewel to Martyr, August 1st, 1559.

[4] Strype's Annals, i, p. 72.

had been protestants, who were throwing all things into confusion.[1]

The wisdom with which the Elizabethan Reformation of the church was conducted is evidenced by the success which followed the measures then adopted. The aim of the Queen and the able advisers by whom she was surrounded was to unite the nation in one faith, yet to destroy, as her father had done, the supremacy of the clergy. In these two objects she succeeded. Disregarding the opposition of the bishops and clergy on the one hand, and the wishes of the extreme reformers on the other, who flocked back from the continent eager to destroy every trace of the old religion, she firmly pursued a middle course. She would have no unnecessarily offensive expressions retained in the services of the church, no nice theological definitions; something of the old magnificence of worship should be preserved, and the eye and ear should not miss innocent externals to which they had been accustomed. Nay, the high-spirited daughter of Henry VIII declined the title of which her father had been so proud; she thought the title, supreme head, might offend Roman and Puritan prejudices. The Queen was firm yet prudent; the clergy must obey the ecclesiastical laws of the realm and acknowledge the Sovereign to be the supreme ruler and governor of the church, as of the commonwealth; but no declaration of their opinions was required; no subscriptions, no tests as yet existed; only the

[1] Jewel to Martyr, November 2nd, 1559.

clergy must obey the Queen and Parliament; so easy were the terms of communion with the National church. A broad, liberal, sagacious, resolute spirit, characterizes the Elizabethan Reformation. Only one hundred and eighty of the clergy refused to comply; the Roman party was gradually extinguished, and in the following reigns, after the insane attempt to destroy King and Parliament by the Gunpowder Plot, is represented by a small band of men intriguing at the court of the Stuarts for bare toleration. To Queen Elizabeth and her able advisers we owe the reconstruction of a church, anti-hierarchical yet anti-puritan, which remains to this day unaltered in its main features; which, through centuries of great national progress, has satisfied the wants and enjoyed the affection of a people of high intelligence; which has been defended by divines, and maintained by great statesmen, lawyers, and patriots, whose names we shall not soon forget, as one of the most tolerant and comprehensive in existence.

Two objections have been brought against the Reformation of the Church of England.

1.—It has been objected that the Reformation in this country was begun and carried on by a few selected divines, and not consented unto freely by the clergy.[1] So Harding calls ours "a Parliament-religion," &c., for, says he to Jewel,—Ye had only one bishop, and he a fool for you,

[1] Jewel to Bullinger, March 5th, 1563. Jewel to Simler, March 7th, 1563. Burnet, ii, p. 12.

and Convocation put up a bill against your proceedings.[1] The Reformation of the Anglican church was, as Sir Michael Foster observes, chiefly conducted by lay counsels and in opposition to the clergy, who complied with the changes, but were active in none, except in the restoration of the Papal supremacy under Queen Mary, and in the cruelties of her reign. It was not necessary to obtain the concurrence of the clergy in effecting reforms in the church. The English Nation deemed itself the English Church, and considered that it had full authority to make ecclesiastical as well as civil laws; for the power of making and executing ecclesiastical laws belongs not to any part of the church, but to the whole Christian community. There was, therefore, no necessity to obtain the separate consent of the clergy. The changes which were made in the church were made, as says Lord Coke, "by generall consent by authority of Parliament, whereunto every man is party."[2]

Yet whilst the Reformation in this country was a lay movement, and the statutes whereby it was effected, particularly those important ones which destroyed the Papal supremacy, and vested it in the crown, were probably suggested and devised by able laymen, who were competent for such work; our ancestors did not act without the advice and guidance of the most learned and enlightened divines of the age, to whom as was most fit, the compilation and revision of the formularies of the church were committed.

[1] Jewel, pp. 902—904. [2] Coke's Institutes, 95 *b*.

For such work the general body of the clergy were unfit, through their ignorance, even had they been favourable to a Reformation; therefore, the ablest of the ecclesiastical order were selected, and commissioned to prepare services, &c., to be offered to the legislature, from whom alone they could receive legal force. No doubt these divines were also selected on account of their known attachment to reformation principles; to commissionate men who hated reforms, to suggest reforms, would have been useless. All that the clergy could justly complain of, was that they were not represented in the House of Commons. This was, as I have already observed, a grievance; but they had a voice in the legislature, for the superior clergy were present in the House of Lords, where they freely expressed the general feeling of aversion entertained by the clergy towards the Reformation.

I may here observe, that although the general body of the clergy, both in England and indeed elsewhere, were opposed to the Reformation, the most illustrious reformers, here and elsewhere, were clergymen. It was, as already observed, by means of the few enlightened clergy that a reformation in the doctrines and services of our church was effected.

2.—It has been objected to the Reformation in England that it was merely a struggle between the king and the clergy for supremacy, that the Nation only exchanged masters, and the king stepped into the shoes of the Pope.

The royal supremacy, which I shall have occasion to examine more fully, rests upon a basis wholly different from that on which the Papal supremacy rests. The supremacy of the Popes is claimed by Divine right; the supremacy of our Sovereigns is the gift of the Nation, conferred, defined, regulated, and continued freely by the Nation for its own benefit. No doubt the King was the prime mover in the English Reformation; Wolsey and Warham acknowledged the need of a Reformation, but despaired of effecting it; the Commons were not yet risen to much power; it was the King alone who was able to carry it. The Reformation of the English church was effected in an orderly and lawful manner, being effected by the King, Lords, and Commons of the Realm; by the Nation, with the advice of learned divines willing to assist in carrying out the wishes of the legislature.

Queen Elizabeth's administration of the church was not successful; and particularly during the latter part of her reign, when Whitgift was primate, is not capable of much defence. The causes of the oppression practiced by Elizabeth, and her general mal-administration of ecclesiastical affairs, are various.

1.—The powers conferred upon the crown by statute were too large to be consistent with the safety of the subject. Although Elizabeth declined the title of supreme head of the church, enjoyed by her father, she abandoned none of his ecclesiastical power. Queen Elizabeth, says

Blackstone, had almost the same legal powers, and sometimes exerted them as roughly as her father.[1] The engine by which the crown, in the reign of Elizabeth, and her successors, James I. and Charles I, exercised so much oppression and cruelty, was the High Commission Court. The erection of this court was unhappily warranted by law, although some of its proceedings were of questionable legality, and certainly deserved the severe censure which they received from Cecil, who remonstrated in vain with his royal mistress. It was erected and united to the regal power by virtue of the statute 1 Elizabeth, c. 1; its legal jurisdiction was great, too great, but its usurped authority was greater; it exerted almost despotic power; and was deservedly abolished by statute 16 Charles I, c. 11.[2]

2.—Not only were the powers of the crown too great, enabling the Sovereign to establish such an engine of oppression as the High Commission Court; but in addition Queen Elizabeth's views on the extent of the royal supremacy were unconstitutional. She seems to have considered that she possessed not merely executive but legislative powers, which are not vested by this realm in the Sovereign.

3.—Unfortunately, also, she adopted the notion that the Reformation was a final measure. This caused her obstinately to oppose all those small concessions which

[1] Blackstone, iv, pp. 431—435.

[2] Blackstone, iii, p. 67; iv, p. 436.

might with safety have been granted, but which being haughtily refused, converted moderate Puritans into fanatical revolutionists. With regard to the Puritans, having elsewhere treated[1] of their rise, growth, and aims, I shall now merely observe, that while many concessions might have been made with great advantage to the church and commonwealth, and abuses have been remedied, which undeniably existed, for they have been in recent times removed, yet the principles of the presbyterian portion of the Puritans, such as Cartwright and Travers, were neither agreeable to reason, nor favourable to religious freedom; whereas the principles of the Church of England, as expounded by Hooker in his immortal work, are tolerant, comprehensive, and rational. In the Ecclesiastical Polity, we find the constitution of the reformed Anglican church explained with a clearness, and defended with a force and logic, not equalled by any theological writer of this country. The bold liberalism of Hooker is unapproached by any English theological writer until Chillingworth systematized free protestant religious principles.

4.—The last and chief cause of Queen Elizabeth's oppressive measures is to be found in the erroneous views entertained generally at that time concerning the obedience due to the laws ecclesiastical of the realm. The idea of that age,—and it was an age wherein, by universal consent, the greatest Englishmen lived and wrote,—was, that a

[1] Two Hundred Years Ago.

Christian commonwealth or Nation was a Christian church, separate from, and independent of every other church; and every such National church was held to be supreme in all those matters which are left to be regulated by human authority. So it was held that the people of England, Denmark, Sweden, &c., were the churches of England, Denmark, Sweden, &c.; and the Sovereign of each country the supreme head of the church within his dominions, as well as of the commonwealth.[1] So every Englishman was accounted a member of the church, as well as of the commonwealth. When, therefore, the Christian commonwealth made ecclesiastical laws, every subject in the realm was expected to pay the same obedience to the ecclesiastical as to the civil laws; and the same respect to the ecclesiastical as to the civil officers of the Sovereign. To dissent from the National church, or to worship God in any other way than that appointed by the legislature, was to disobey the ecclesiastical laws of the realm; and such disobedience it was considered, until the Revolution, could not with safety to the Nation be allowed to go unpunished. Thus persecution resulted; and therefore it must be remembered, that the sects suffered not so much on account of their theological opinions as on account of disobedience to the laws of the realm. It has been said, I think, by Warburton, that persecution is the necessary result of identifying the church with the commonwealth; but this is contrary to fact. For

[1] Whitgift, iii, p. 198.

since the Revolution, the legislature has continued its ancient practice of making laws ecclesiastical, and the Sovereign is still supreme ruler of the church as of the commonwealth, yet there is no persecution on account of religion. And for this reason; obedience to the ecclesiastical or church laws of Parliament is voluntary; no man is forced to go to a particular place of worship, or compelled to worship God, or receive any religious rites or ordinances in the manner prescribed by the legislature. If persecution were a necessary result of a National church, it would be a sufficient argument against its existence.

The reaction in favour of hierarchical views, commencing with Bancroft in James I's reign, and ending for a time with Laud in the next, so fatally to the monarchy and episcopacy, discovered the value of the statutes vesting all ecclesiastical supremacy in the Sovereign, and at the same time the defective character of the Reformation in not sufficiently limiting the powers of the crown. So fully alive has the Nation been to the importance of maintaining the royal supremacy as a fundamental principle of our constitution, that the hierarchical clergy, neither in the sixteenth nor seventeenth centuries, made an open attempt to interfere with it. Even Laud accepted it, and used it though he must have regarded it as a detestable usurpation; and by supporting the king in his endeavour to deprive the Nation of its civil liberties, purchased the assistance of the crown in his schemes for depriving the Nation of its religious liberties.

CHAPTER III.

JAMES I. and and the Puritans—Canons of 1603—Laud's attempts to restore sacerdotalism—Canons of 1640—High Commission Court and episcopacy abolished—Presbyterianism established—Cromwell on church polity—The Restoration—Act of Uniformity—The Test Act—The Revolution—Toleration Act—Improvements in the constitution of the National church—The repeal of Test Act.

THE only proceedings in the reign of James I, which require notice for my present purpose, are the alterations made in the Prayer Book, and the assembling of the clergy to make canons.

A favourable opportunity now occurred of conciliating the more moderate Puritans; the concessions which from the time of the Reformation they had been asking for, might have been safely granted; and thus they would have been detached from the extreme Puritans, who were eager to introduce into England the presbyterian system of church government, as it existed in Scotland. The new Sovereign, coming from Scotland, was supposed by the Puritans to be favourably disposed towards them; but they were mistaken; the more he saw of them, the less he liked them. However, pretending that he desired to conciliate them, he called a

conference of divines, at which he was present, and acted with little dignity. The conference gave no satisfaction; the king ordered a few alterations in the Liturgy, but would afford no relief even to the moderate Puritans. He followed the policy of Elizabeth; and the High Commission Court continued to fine, imprison, and deprive the Puritanical clergy. Thus this favourable opportunity was cast away, and none like it occurred until the Restoration. The alterations in the services of the church were of little importance, and only are mentioned here as having been made, not as those in the reigns of Edward VI and Elizabeth by Parliament, but by the sole authority of the King; and therefore it seems questionable whether they had any legal force.

James I. had little respect for Parliament; he considered himself an *absolute* king, free to make laws ecclesiastical as well as civil, "without any advice of Parliament or estate;"[1] but Parliament in a famous protestation asserted, "that the urgent and arduous affairs concerning the king, state, and defence of the Realm and of the Church of England," and the making of laws and redress of mischiefs and grievances, are proper subjects and matter of council and debate in Parliament.[2]

In 1603 the clergy were assembled for the making of canons. The canons were confirmed by the king, and

[1] Hume's Hist., vol. vi, p. 19, note *g*.

[2] Protestation of the Commons, 1621.

contain some useful regulations. They maintain in very clear language the king's supremacy, for James I. would not suffer that to be touched; but they advance the claim of the clergy to be the church as boldly as before or at the Reformation, for one of the canons declares,—that whosoever denies that the clergy in synod assembled do represent the Church of England, and that their decrees, ratified by the king, bind clergy and laity, without their consent,—is to be excommunicated.[1] The fiery spirit of Bancroft, who presided over the clergy, flames out in a series of excommunications, which however are perfectly harmless; and the only canon of much practical importance is the thirty-sixth, requiring the clergy to subscribe three articles which it recites. Early in the reign of Elizabeth, Parliament had enacted that all the clergy should subscribe the thirty-nine articles; but Elizabeth was not content with that subscription, and in the vain hope of crushing the Puritans, authorized Whitgift to impose upon the clergy a further subscription to three articles, touching the supremacy, the Book of Common Prayer, and the thirty-nine articles. The Puritans objected to this proceeding as oppressive to the subject; and it was considered by lawyers to be a violation of the laws of the Realm. I believe that they were right, but Parliament was as yet too timid to resent the Queen's violations of the constitution. James I. might therefore appeal in justification to Elizabeth's practice of imposing

[1] Canons, cxxxix, cxl.

subscriptions on the clergy without the consent of Parliament; and neither he nor his unfortunate son and successor could be made to understand that the Tudor princes had become almost absolute monarchs, through the decline of the power of the barons, but that the Nation was now resolved to recover their ancient liberties, and become a free people.

The effect of allowing the clergy, with the consent of the Sovereign, to impose oaths or declarations, or require subscriptions to articles of faith, is to give them the power of determining the terms on which the ecclesiastical property of the Nation is to be enjoyed. If church or ecclesiastical property were the property of a sect or society within this realm, and under their control, then it would be reasonable and just that the sect or society should decide who should enjoy it, and upon what terms it should be held. But if ecclesiastical property be for the religious benefit of the Nation, under the control of the Nation, which it always has been, then it is for the Nation, through Parliament, to lay down the terms or conditions on which such property is to be held. It is, therefore, for Parliament, not for the clergy, to say what subscriptions or declarations shall be made by the religious teachers of the Nation, previous to their admission to benefices and ecclesiastical offices.

It was the misfortune of Charles I. to be advised in ecclesiastical affairs by a man utterly unfit for the high

post which he occupied,—Archbishop Laud. It is not necessary to consider the cruel policy pursued by this passionate and vindictive prelate towards the Puritans, goading them into rebellion, and drawing towards them the sympathies of generous men; I am only concerned with his attempts to alter the constitution of the church.

Laud had no intention of restoring the supremacy of the Pope, or introducing any great changes in the doctrines of the church; but he was full of the hierarchical spirit, and the nature of the changes he would have effected in the constitution of the Anglican church, may be understood from the significant words of his admirer, Sir Philip Warwick, who says of him,—"He was a great assertor of church-authority, therefore he endeavoured to preserve the jurisdiction which the church anciently exercised before the secular authority owned her." By "church," Sir Philip Warwick means "clergy;" and Laud's design was to obtain for the clergy the jurisdiction and authority they had usurped before the conversion of Constantine. No unprejudiced person can doubt that although Laud did not intend to restore the Church of Rome, as some of his accusers said, it was his heart's desire to restore sacerdotalism. He hated lay interference in church matters; and it is clear from his words and actions, that the aim of his life was to regain for the clergy the legislative power which they had enjoyed before the Reformation; with this difference, that the clergy were to act in conjunction with the King instead

of the Pope. If he did not *say*, as he was accused,—that Parliament should not meddle with religion without the assent of the clergy, and that he would rescind all acts which were against the canons,—these words certainly express what he thought and intended to do.

Laud did not attempt to interfere with the supremacy of the King, except that he did not like ecclesiastical jurisdiction being exercised, as it had been, in the king's name, and therefore he altered that practice; but that Laud would have embraced any opportunity that might have arisen for making the Crown subject to the Mitre, can hardly be doubted; indeed, one of his school, very superior to the generality of the Laudian divines, is reported to have said that,—*The king has no more authority in ecclesiastical matters, than the boy who rubs my horse's heels.*[1] Whatever objection Laud had to a Pope at Rome, he had none to a patriarch at Canterbury. There was little temptation to undertake the dangerous work of overthrowing the supremacy of the Crown, so long as it was worn by a Sovereign so ready to aid him in his hierarchical designs as Charles I.

Although the King encouraged Laud in his encroachments, it may be doubted whether he would have allowed the Papal supremacy to be restored, or the clergy of the National church to become independent of the Crown. The design of the King and Laud seems to have been to take all ecclesiastical legislation out of the hands of Parliament;

[1] Hume's Hist., vi, p. 386.

there were to be no ecclesiastical statutes, only canons, injunctions, constitutions; the King was to be the supreme governor of the Church of England, but he was to act by the clergy. In his declaration prefixed to the thirty-nine articles, the King says,—"If any difference arise about the external policy, concerning the injunctions, canons, and other constitutions whatsoever thereto belonging, the clergy in their Convocation is to order and settle them, having first obtained leave under our Broad Seal so to do." Again,—"That the churchmen may do the work which is proper unto them, the bishops and clergy, from time to time in Convocation, upon their humble desire, shall have license under our Broad Seal to deliberate of, and to do all such things, as being made plain by them, and assented unto by us, shall concern the settled continuance of the doctrine and discipline of the Church of England now established."[1] The legislative power, therefore, was to be restored to the clergy; the settlement of all ecclesiastical controversies was to be placed in their hands; ecclesiastical jurisdiction was to be no longer exercised in the Sovereign's name, but in the bishops'; the universities were declared by the King himself to be subject to the Archbishop of Canterbury; and no lay chancellor was to be allowed to "proceed to suspension or any higher censure against any of the clergy in any criminal cause."[2]

[1] Declaration prefixed to Thirty-nine Articles.

[2] Canons of 1640, canon xii.

It is plain, therefore, that Charles I. and Laud designed to introduce the sacerdotal form of church government. Happily they did not succeed; and so lasting has been the remembrance of the calamities brought on this country by Laud's policy, and so general the aversion of the Nation to it, that although the Laudian doctrine of the divine right of bishops to jurisdiction and government has since been held by many learned divines in the English church, the general body of the clergy have, until the present day, manifested no desire to get rid of lay action in spiritual affairs; and the two great political parties, the Whigs and the Tories, have hitherto been equally resolved to maintain the supremacy of the Crown over the clergy, and the right of Parliament to make laws for the church as well as the commonwealth.

Laud's canons of 1640 contain unmistakeable evidences of his hatred of lay action in ecclesiastical matters;[1] one of them which gave great offence to Puritanical prejudices, was reasonable, and seemed called for;[2] but that which proved like a spark to the smouldering anger of a high-spirited Nation, was the sixth, imposing on clergy and laity an oath which only mental slaves could take. Laud must have been aware that this mischievous practice of imposing subscriptions and oaths had been objected to even in Elizabeth's time, when not much liberty of speech was

[1] See canons xi, xii, xiii, xiv.

[2] Canon vii.

indulged in, and declared illegal by lawyers; but regardless of the signs of the coming storm, the infatuated Laud presumed to impose on the subject an oath which he was "heartily, willingly, and truly" to take or be deprived of his freehold, that he would never "consent to alter the government of this church, by archbishops, bishops, deans, and archdeacons, &c., as it stands now established, and as by right it ought to stand."[1] The Nation was justly indignant at this attempt to make ministers, lawyers, physicians, graduates, and schoolmasters, swear that they would never consent to any changes in the existing polity of the church, however necessary or beneficial they might become.

There was now assembled a Parliament as loyal to the ancient constitution in Church and State, as any that England has seen; and it seemed to be setting forth upon a march to high destinies. Parliament examined the canons, and after an able discussion on the power of the clergy and Crown to make canons, came to this resolution, without one dissentient voice,—"That the clergy of England convened in any Convocation, or synod, or otherwise, have no power to make any constitutions, canons, or acts whatsoever, in matters of doctrine, discipline, or otherwise, to bind the clergy or the laity of the land, without common consent of Parliament." Had Parliament resolved that the clergy *ought* not to have power to make canons, they

[1] Canon vi.

would have stated a principle agreeable to our Constitution; and had they proceeded to enact that canons not sanctioned by Parliament should have no force in this realm, they would have cured the defect in the Act of Submission to which I have alluded; but they thought a bare resolution sufficient, and thus the question concerning the force of canons not sanctioned by Parliament remained undetermined. Parliament was certainly wrong when it declared that canons not confirmed by Parliament have no binding force; the Act of Submission does not mention Parliament; and it is clear from that statute that canons confirmed by the Crown have some binding force. However, no attempt has ever been made to enforce the canons of 1640.

Parliament proceeded to abolish the High Commission Court, with the consent of the king, by statute 16 Charles I, c. 11. This was a most just measure; for this court had been the engine of great oppression. Their next step was to remove the bishops from the House of Lords; to this the King assented, but with great reluctance. This was an unwise measure, for good and able bishops, and there were such, would have materially assisted in reforming the abuses in the church.

Laud and his satellites had so exasperated the Nation, that the reforms which many of the most eminent patriots were anxious to see effected were not deemed sufficient. The multitude would make no difference between the good bishops and the bad; their hatred of Laud and his creatures

extended to the whole order, and to the function. "The bishops," says Selden, "have done ill; it was the men, not the function;"[1] but the angry multitude could not see this. The conservative reformers, like Falkland, Selden, Digby, Hyde, Capel, who were as eager as any to reform abuses, lost popular influence. Reformation soon became too tame work, and violent measures commenced. The episcopal form of church government, which had subsisted in this country from the introduction of Christianity into England, was rashly swept away, notwithstanding the eloquent protests of such men as Lord Falkland, who were keenly alive to the insolence and oppressions which had been practiced by the Laudian party, but were for curtailing the powers of bishops, not for extirpating this ancient and venerable order of clergy.

The endeavours of the Puritan clergy to assimilate the Church of England to that of Scotland, by introducing the ecclesiastical polity of Calvin, were, however, steadily resisted by Parliament. The lawyers in particular, always honourably distinguished for their greater attachment to freedom than clergymen, were not to be persuaded into entrusting ecclesiastical matters to presbyters, or prelates; and in Scotland they saw enough to satisfy them that a presbyterian church was as hostile to religious liberty as Laud and his prelates had been.

The National Church was now Presbyterian, inasmuch as

[1] Selden's Works, vol. iii, p. 2016.

bishops had been abolished; but Presbyterianism as it flourished in Scotland never was established in England, for our English Parliament would not give up the legislative power in ecclesiastical matters; they would allow the Assembly of divines nothing but the liberty of offering advice; and refused even to allow them to supply vacancies in their own body. The Presbyterians wished Parliament to acknowledge their form of church government to be by divine right; but Parliament had seen enough of the evils resulting from Laud's doctrine of the divine right of bishops, to cause them to decline allowing any form of church government to be such that it could not be changed by the Nation.[1] The Presbyterians were further disgusted with Parliament for not allowing them to excommunicate and persecute as Laud had done. Parliament jealously retained not only all legislative power in spiritual affairs, but also supreme ecclesiastical jurisdiction; appeals from all ecclesiastical courts were to Parliament, and by them commissioners were appointed to hear cases; so determined was Parliament to keep the clergy subordinate to the Nation.

The Independents, who succeeded in power the Puritans, or Presbyterians as they were now called, were in theory opposed to a National church. Their fundamental principle, that every Christian congregation is a church, separate from and independent of every other similar church, is

[1] Hume, vol. vii, p. 70.

obviously fatal to a National church; for the essence of a National church is that its laws or regulations derive their authority or binding power from the Nation. If, as the Independents hold, every congregation is an independent ecclesiastical republic, Parliament can have no authority to define the duties of ministers or the rights of congregations. And further, Independents, though they were very averse to Presbyterian intolerance, generally held Calvinistic doctrines, which seem unfavourable to a comprehensive National church. When Parliament desired to grant to all who professed the fundamentals of religion the free exercise of their religion, Baxter, Owen, and other divines were requested to define these fundamentals. Baxter proposed that the Apostles' Creed, the Lord's Prayer, and the Ten Commandments should be considered as containing all that is necessary or essential; but Owen and the Independents were hot against his proposition.[1]

Oliver Cromwell was a man of much larger views than many of his supporters; he considered that there ought to be a National church, and of a more comprehensive character than the Presbyterians approved. Some of the sects declaimed against tithes, and a hireling priesthood, and would have no established or National church; but Cromwell held different views. He would not alienate to other purposes property devoted to the maintenance of religion and learning; the Nation should have teachers of

[1] Baxter's Life and Times, ii, p. 198.

religion; they should be supported by the ancient endowments; they must be under the control of the Supreme Magistrate of the Nation; and all who professed the fundamental articles of the Christian religion, should be capable of holding benefices, after trial and approval by a body appointed for the purpose.

Oliver Cromwell would probably have constructed a National church somewhat similar in its government to the Lutheran church. The supreme civil ruler of every Lutheran state, says Mosheim, himself a Lutheran, is clothed also with the dignity, and performs the functions of supremacy in the church, but not in a despotic or arbitrary manner; and amongst the clergy there is a certain subordination, a diversity in point of rank and privileges, which is not only highly useful, but also necessary to the perfection of church communion; but Lutherans are persuaded that there is no divine law commanding a distinction of rank or prerogatives amongst the clergy.[1]

Oliver Cromwell was the first ruler in this country who granted toleration to separatists from the National church. Hitherto Prelatists and Presbyterians equally rejected the idea of allowing sects; all must belong to the National church, or religion; separation from it was an enormity not to be tolerated.[2]

The restoration of Charles II was followed by the restoration of the church, the same in all its principal

[1] Mosheim, iv, 270—272. [2] Hume, vol. vi, p. 164.

features as reconstructed by Elizabeth and her Parliament. It was less comprehensive, for the Nation was too heated and resentful to permit the old Puritanical party to remain in the church. A new Act of Uniformity was passed to effect their expulsion; the main points in which it differed from Elizabeth's, were as follows:—

1.—The clergy were henceforth to make a declaration of their assent and consent to the Prayer Book. The object of this declaration was malignant, and its operation has been mischievous. The practice of requiring such declarations had been very justly censured by Bacon and others, as promoting schism, not unity, and is really unnecessary, for an honest clergyman would not use the Prayer Book unless he generally approved of its contents; whilst a dishonest man would not only use it, but make any number of declarations concerning it, which the legislature might require. Societies should be careful in imposing tests, for whilst they raise difficulties in the minds of the scrupulous and conscientious, they touch not those whom they are mainly designed to affect, the dull, unintelligent, careless, and unprincipled. This stringent declaration has recently, mainly through the exertions of Lord Ebury, been abolished, to the great benefit of the church.

2.—None but those ordained by a bishop were henceforward to hold benefices. This seems a reasonable provision, and the only objection to which it is, I conceive, open, is that its effect, though not its intent, has been to

isolate the Anglican from the other reformed churches, which have not retained bishops, whose clergy are prevented by this clause officiating in our churches. It was not aimed at the regularly ordained clergy of other reformed churches, but at the irregular practice of subjects of this realm obtaining ordination not from the prelates of the church, the only persons authorized by the laws of this realm to confer orders, but from presbyters and others who have no such authority given to them. It was undoubtedly cruel to eject clergymen from their benefices simply because they had not been ordained by a bishop. In Elizabeth's time, and indeed after, those who had been ordained abroad by presbyters, on signing the thirty-nine articles, were by law admissable to livings; and many such held livings.

Charles II's Act of Uniformity, though so marred by the intolerant and vindictive spirit manifest in several of its provisions, was in one point superior to Elizabeth's Act of Uniformity. The Sovereign was no longer to have power to make any changes in the rites and ceremonies of the church; the clergy were to perform Divine Service as ordered by Parliament; and no alteration in the Prayer Book can be made without the sanction of the Nation.

The constitution of the church was in some respects improved; the power of the Crown and bishops was limited; Parliament asserted positively, by resolution as well as by practice, that their legislative power in church

matters was supreme, and that they would not suffer the clergy to dictate to them, thus rejecting the Laudian claims on behalf of the priesthood; the High Commission Court was not revived; the hateful ex-officio oath was justly forbidden.

The legislature having hastily and cruelly excluded a considerable body of men from the church, chiefly by requiring all clergymen to declare their assent and consent to the Book of Common Prayer, and receive episcopal ordination, betrayed its fear of them, by persecuting, with the hope of extinguishing, the non-conforming portion of the population. These persecuting statutes admit of no excuse, for the Nation had been taught by such men as Hales, Chillingworth, Falkland, Selden, Jeremy Taylor, who were undoubtedly devoted to a National church, those liberal views which triumphed at the Revolution; and Cromwell had prepared the way for a National church with toleration for Nonconformists.

Besides harassing Nonconformists, the legislature erected two bulwarks, as they were considered, for the security of the church, the Corporation and Test Acts.[1] The object of the Test Act was to effect a very important change in the constitution of Parliament, by excluding from it all who were not willing to comply with the rites of the National church. Thus Parliament no longer reflected the various religious opinions of the Nation: Nonconformists could not

[1] Blackstone, iv, pp. 58, 59.

be represented by those who best understood their sentiments and feelings. When the Test Act was repealed, as happily it has been, the great Council of the Nation was restored to its primitive character; and as the temporal statutes of Parliament reflect the mind of the English Nation on temporal matters, so do the ecclesiastical statutes on matters ecclesiastical.

In 1664 it was agreed between Lord Chancellor Clarendon and Archbishop Sheldon, that the clergy should be taxed as other subjects of the realm are, by Parliament, and not by themselves in Convocation as they hitherto had been;[1] and that they should vote in the election of members of Parliament. That which makes this transaction remarkable is that so important a change should be effected without the intervention of Parliament. It, however, removed a grievance before alluded to, which from the Reformation the clergy had been suffering. For until 1664 the clergy were only represented by Convocation; they had no votes in the election of members of Parliament, and therefore they had no voice in the House of Commons. Hooker writes with his usual clearness on this subject, saying, "The Parliament of England, together with the Convocation annexed thereunto, is that whereupon the very essence of all government within this kingdom doth depend; it is even the body of the whole realm; it consisteth of the king, and all that within the land are subject unto him."[2]

[1] Johnson's Vade Mecum, i, pp. 149, 150. [2] Hooker, ii, pp. 429, 430.

The clergy had complained, in the reigns of Edward VI, Elizabeth, and James I, that they were bound by laws made without their consent, whereas, no subject should be bound to that law, whereunto he himself, after a sort, has not yielded his consent. And they suggested two remedies; they prayed either that they might be associated with the House of Commons, or that no laws might be made "without the sight and assent of the said clergy." The clergy were certainly suffering a grievance; and as I have said, their petitions did not receive the attention they deserved. Whilst the bishops have remained, as in early times, co-ordinate legislators with the temporal lords; the inferior clergy have never been allowed to send any of their order to Parliament.[1] Had some representatives of the clergy been admitted to the Lower, as the bishops are to the Upper House of Parliament, our constitution would have been brought back to a nearer resemblance to that of Anglo-Saxon times; and it would have been of advantage to the House of Commons to have the ablest of the clergy, "men of religion, learning, and discretion," present, when engaged on ecclesiastical matters.[2] By thus allowing some of the clergy to sit in Parliament, the desire for a separate legislature for the making of church laws, which prevails

[1] The petitions of the clergy to Edward VI, Elizabeth, and James I, are given in Burnet, vol. ii, part ii, pp. 164—169; vol. iii, part i, p. 275. Lathbury, p. 138.

[2] Carwithen, ii, p. 355.

so much at the present day, would have been lessened, if not satisfied. There is, however, no grievance now suffered by either clergy or laity, for whilst the bishops sit in the House of Lords, the whole Nation, the clergy as well as laity of the church, are represented in the House of Commons, and are bound by what they do.

There are no other proceedings in Charles II's reign to which I need allude.

The feeble attempt of James II to destroy the National church by reviving a High Commission Court, dispensing with the ecclesiastical laws of the realm, and endeavouring to terrify the bishops and clergy into compliance with his illegal designs, only hastened his ruin. How nobly the clergy maintained the supremacy of the laws over the King, and how great a victory they obtained for this church and realm, are very well known, and will be ever appreciated. The pious primate, Sancroft, by word and deed, assured the Nation that the bishops and clergy of the Church of England "were irreconcilable enemies to the errors, superstitions, idolatries, and tyrannies of the Church of Rome;" and he exhorted all Protestants to "pray for the universal blessed union of all Reformed churches both at home and abroad" against Rome, their common enemy.[1] The prelates were revered by all Protestants for the firm resistance which they made to the king's designs; and not

[1] Gutch's Collection, i. Echard, p. 1107. Life of Sancroft, ii, pp. 319, 324, 325.

for centuries had they stood so high in the esteem of the Nation.

Happily James II failed in his endeavour to introduce Popery and arbitrary power, and fled, leaving the crown to be placed on the head of William, Prince of Orange.

The ecclesiastical proceedings at the Revolution remain to be noticed. Considerable alterations in the services and ceremonies of the church were designed. The late danger had created a desire that some attempt should be made to enlarge the National church; but the Comprehension scheme failed. The Toleration Act, however, of greater importance, was obtained. Until the Restoration no considerable party in this country were opposed to the principle of a National church. Even the Independents had not declared against it; and during the Commonwealth had held benefices, although their principles are irreconcilable with a National church. But when at the Restoration, a number of zealous men found themselves thrust out of the benefices which they had occupied without any scruple on the lawfulness of endowments, they began to regard with an evil eye the National church, and to question the expediency and lawfulness of the legislature interfering with religion. And so it will generally be found, that men rarely begin by questioning the lawfulness of a National church; they secede on other grounds, and finding themselves out of the church, commonly proceed from disapproving some of the services, rites, ceremonies, or

discipline of the church, to doubt and deny the authority of Parliament to make any laws concerning religion.

The Toleration Act, though an imperfect measure, contained the germ of those principles which are now generally recognized; it presumed a National church, and enacted that within certain limitations, they who did not conform to it, should be protected in the exercise of their religion. Thus the English Nation continued, as from the Reformation, to make laws ecclesiastical as well as civil; but whilst obedience to the latter is compulsory, obedience to the former is voluntary. The Nation has not ceased to make laws concerning religion, but it has removed the pains and penalties formerly attached to nonconformity to the National church. Thus there is in England a National church, with no limit to religious liberty, except such as the public safety demands.

The constitution of Church and State received further improvements at the Revolution. Our liberties were asserted in clearer and more emphatic terms; the power of the king was declared to be limited; he had no power to suspend or dispense with the laws; he must govern according to law; maintain the Protestant Reformed Religion established by law; preserve to the clergy and the churches all such rights and privileges as by law appertain to them; erect no court of Ecclesiastical Commission, which was pronounced illegal; in short, all legislative power, ecclesiastical and civil, wholly belongs to the legislature;

the Sovereign only executes the laws, as supreme head of church and commonwealth.

Thus was the Church of England brought to that state of excellence in which it now exists.

Throughout the whole of the last century, none but members of the National church could be admitted to the legislature; the Test Act being considered essential to the preservation of the church. For it was argued, that as Parliament made laws for the church, it was neither reasonable nor safe that those who were hostile to the church should be admitted into the legislature.[1] But there are such unanswerable objections to the exclusion of men on account of their religious opinions, from the legislative body of the realm, that in the present century the doors of Parliament have been, by successive acts, thrown open to all men without respect to their creed; the old Saxon constitution, with regard to ecclesiastical polity, has been restored, and the Sovereign, with the prelates, nobles, and wisest men of the Nation meet as in King Alfred's time, "to treat of the government of God's people," to promote peace and happiness, truth and justice, religion and piety, in this Church and Realm.

---

[1] Warburton's Alliance.

PART SECOND.

PRESENT CONSTITUTION OF THE NATIONAL CHURCH.

PRESENT CONSTITUTION.

CHAPTER I.

CHURCH and commonwealth one society—The legislative power belongs to the whole church—Parliament legislates for the church.

I PURPOSE now to consider the present constitution of the Church of England, to show the ideal principle on which it is founded, and to vindicate it as being agreeable to reason, favourable to liberty, conducive to the welfare of the Nation and the dignity of religion, securing to the laity the supreme power in the church, and to the clergy the honour, independence, and authority which scripture recommends and reason justifies.

I am not about to treat of the doctrines of the National church concerning purely theological matters, of its rites, ceremonies, or form of worship. I am only concerned with the constitution of the church, with the doctrines of the present National church touching matters of external polity, or church government. And as in order to ascertain what

are the doctrines of the church concerning purely theological matters, we must have recourse principally to its Articles and formularies, which were drawn up by learned divines; so in order to ascertain what are the doctrines of the National church touching matters of external polity, or what is its constitution, we must have recourse principally to the ecclesiastical statutes of the Realm, particularly to those by which the Reformation was effected, to the public transactions at that time, to the decisions of our judges in ecclesiastical causes, to the works of our great legal writers, as Coke, Hale, Foster, and Blackstone, and to those divines who have written on church polity, or in defence of the National church, as Jewel, Whitgift, Hooker, Jeremy Taylor, and Barrow.

The history of the Church of England commences with the conversion of our ancestors to Christianity, and may be conveniently divided into three periods—first, the Anglo-Saxon; second, the Papal; third, the Reformed.

1.—Concerning the constitution of the Church of England during Anglo-Saxon times, it is not necessary to add anything to what has been said. It resembled in some important particulars the present constitution; but the clergy were able, through their intellectual and moral superiority, to obtain an influence which they cannot possess when the laity are their intellectual equals.

2.—During the Papal period, the constitution of the church was hierarchical or sacerdotal. The clergy assem-

bled at their pleasure, made ecclesiastical laws and canons by, they said, divine authority, elected the bishops, tried all ecclesiastical persons and cases in their own courts, by their own laws, and by their own judges; the supreme head to whom all appeals in ecclesiastical causes were made, being an ecclesiastic, the Bishop of Rome, who claimed all ecclesiastical jurisdiction as lodged in the first place and immediately in him, by divine indefeasible right and investiture from the Saviour Himself.[1] The legislature made no claim ordinarily to interfere with the faith, ceremonies, or discipline of the church; these being purely spiritual matters were considered to be under the exclusive management of ecclesiastics, and so are declared in several ancient statutes.[2]

3.—The reformed Church of England is in its polity or constitution anti-papal, denying that the Pope has any authority or jurisdiction over it; and anti-sacerdotal, rejecting the claim of the clergy that to them belongs, by divine right, the making and executing of church laws. In its doctrines and worship it is protestant, because it protests against certain doctrines and practices of the Church of Rome, as erroneous and superstitious. Hence it is called in the coronation oath,—The Protestant reformed religion established by the law.

The Reformation in England proceeded on two capital

[1] Blackstone, iii, p. 438.

[2] 13 Edw. I, st. iv, c. 1; 2 Hen. IV, c. 15; 2 Hen. V, st. i, c. 7.

principles, first—that the English commonwealth was the English church, an independent National church, competent to manage its own ecclesiastical affairs; secondly—that the legislative power in church affairs, or the power of making, abrogating, and changing ecclesiastical laws, belongs to the whole church, and not to any part of it. These are the two fundamental principles of the National church.

When Christianity was first preached amongst our Anglo-Saxon forefathers, they who embraced it became a society which was called the English church;[1] and when heathenism was extinguished, and the Nation professed the Christian religion, then the people of England became the Church of England. For, as Jeremy Taylor well says, "The church is not a distinct state and order of men, but the commonwealth turned Christian."[2] A commonwealth of Christian men and a church are the same thing called by two names.

That a Christian commonwealth is a Christian church, was the idea of our church writers from the Reformation until the time of Hooker, who in his immortal work vindicates the reformed National church against Roman and Puritan adversaries, on the only ground on which it can be vindicated, namely—that the commonwealth of England is the Church of England. The following extracts will show the views of our early divines on this point.

Archbishop Whitgift may be taken as representing the

[1] Bede's Ecc. Hist., pp. 42, 44, 54, 66, 170.
[2] Taylor's Works, xiii, p. 536.

views entertained in Queen Elizabeth's time on this subject. He says to his great Puritan opponent, Cartwright, "I perceive no such distinction of the commonwealth and the church that they should be counted, as it were, two several bodies, governed with divers laws, and divers magistrates, except the church be linked with an heathenish and idolatrous commonwealth."[1] Again, "Your distinction betwixt the church and the commonwealth, if it were in Nero's or Dioclesian's time, might be admitted without exception; but in my opinion it is not so fit in this time, and especially in this kingdom. May he be a member of a Christian commonwealth, that is not in the church of Christ? . . . It cannot yet sink into my head that he should be a member of a Christian commonwealth, that is not also a member of the church of Christ, concerning the outward society."[2] Again, "There is no such distinction betwixt the church of Christ and a Christian commonwealth as you and the Papists dream of."[3] Again, he says,—In a heathenish commonwealth, as in Turkey, the church is separate from the commonwealth, but there is no such distinction between a Christian commonwealth and the church of Christ, the commonwealth of England is not distinct from the Church of England.[4]

But it is in the pages of Hooker that we find the identity

[1] Whitgift, i, p. 22. [2] Whitgift, i, p. 388.
[3] Whitgift, iii, p. 160.
[4] Whitgift, iv, pp. 167, 198, 297, 313.

of the church and commonwealth most philosophically stated and defended. He defines the church of Christ to be a religious society, consisting of those who call upon the name of our Lord Jesus Christ.[1] When then, he argues, the people of any city or country received the true religion, (we mean true religion in gross, and not in every particular), the people became the church of that place, unless we restrain the name of a church in a Christian commonwealth to the clergy, excluding all the rest of the believers; the commonwealth and church are personally one society; the same multitude are a commonwealth and a church, as the same person may be a schoolmaster and physician; we call this multitude or society a commonwealth, in regard of some secular law, regiment, or policy, under which it lieth; we call that same multitude or society a church, because of it professing the true and not a heathenish religion.[2] Seeing then, that the Christians of a country are a commonwealth and a church, we hold that "there is not any man of the Church of England, but the same man is also a member of the commonwealth, nor any member of the commonwealth, which is not also of the Church of England . . . Nay, it is so with us, that no person appertaining to the one, can be denied also to be of the other."[3] Again, "If the commonwealth be Christian, if the people which are of it do publicly embrace the true religion, this very thing doth

[1] Hooker, ii, p. 18. [2] Hooker, ii, pp. 384—391.
[3] Hooker, ii, p. 386.

make it the church," for when a commonwealth becomes Christian, the authority which it has to make laws concerning religion, it does not lose, but retains.[1]

It is upon this ground, that a commonwealth of Christians is a Christian church, that the English Nation deeming itself to be the English church, has exercised the power of making laws ecclesiastical, which laws, until the Revolution, all members of the commonwealth were expected to obey. But since the Revolution, not only has the Nation left every man free to conform to, or dissent from the National church, but it has recognized and legalized nonconformity.

The first fundamental principle, therefore, of the Church of England, acted on at the Reformation, was that the English Nation being a commonwealth of Christians, was an independent National church, known as the English church. This is the ideal principle on which our National church is founded: upon this principle our ancestors acted and our legislature still does act.

Since the Revolution, chiefly through the increase of nonconformity, the Nationality of the church has been fading from men's minds, and a sectarian idea taking its place, namely, that the Church of England is a sect, one of many other religious communities in the country, from which it is distinguished by certain doctrines, or form of government, enjoying certain privileges, honours, and endowments conferred upon it by the State. From this

[1] Hooker, ii, p. 450.

erroneous conception of the National church spring many of the objections which are urged against it.

The theory that the Church and the State or commonwealth are two originally distinct and separate societies, now allied on certain conditions, has no foundation in fact, and is unsupported by the practice of this Church and Realm. In Scotland there is such an alliance; there the Established Church has its own legislature and courts, but gives to the State some control over its concerns, in return for the privileges and endowments bestowed upon it by the State. But in England there is no such alliance; there is nothing in the history of our country, nothing in the practice of this Church and Realm which gives the slightest countenance to the theory of an alliance or contract between one body called the church, and another separate and independent body called the State. In Anglo-Saxon times, Parliament provided, as we have seen, for the religious as well as temporal welfare of the Nation, the Anglo-Saxon people being the Anglo-Saxon church; even when the Papal supremacy was established in this country, though the making of ecclesiastical laws was claimed and exercised by the clergy, the English Nation was regarded and spoken of as the English church or Church of England. At the Reformation, no alliance or contract was entered into; it is most clear from the language of the statutes passed at that time, that the people of England deemed themselves to be the Church of England, subject to no other human laws

than those which had "been devised, made, and obtained within this realm," and free to make such regulations concerning ecclesiastical matters as they might think good, without asking the consent of any other persons. Accordingly, the King and Parliament of England began the Reformation by destroying the exorbitant power of the clergy; they forbad payments to the Bishop of Rome, abolished the Papal supremacy, made the Sovereign supreme head of the Church of England, took away from the clergy the power of making canons and constitutions, gave to the Sovereign the appointment of archbishops and bishops, abolished monastic orders, gave much ecclesiastical property to the King, commanded the clergy to perform divine service in English according to the manner prescribed by Parliament, promulgated articles of faith to be subscribed by the clergy. None of these proceedings give any countenance to the notion of a contract or alliance between one body called the Church, and another body called the State; they are utterly at variance with it.

The theory of an alliance between the Church and the State, effected at the Reformation, rests upon the supposition that the English Nation having cast off their old religion, went in search of a new one, and having met with a church or society called the Protestant Episcopal Church, whose doctrines and organization it approved of, contracted with it the alliance which now exists. But the English Nation were, long before the Reformation, members of the English

church, which church they gradually reformed by successive measures, whereby the identity of the National church was no more destroyed or affected than is the identity of a man affected by a change in the colour of his hair.

The English church could never have entered into an alliance with the commonwealth, for it never had a legislature of its own, separate from the legislature of the Nation, except during the sacerdotal period, when the clergy became possessed of the legislative power; neither at the Reformation, nor since, has the church had any body authorized to contract an alliance with the State.

If the State or Nation were to enter into an alliance or contract with the Wesleyan Methodist society, and agree to make it the Established or National church, upon certain terms, the Nation would be contracting an alliance with a society possessing in itself a perfect organization for the administration of its affairs, and this organization would remain unimpaired, so that were the alliance to be dissolved, and the Wesleyan Methodist society be no longer the National or Established church, it would be in the same position that it was in before the alliance was entered into, no better and no worse. It would have its old machinery ready for use, but no longer controlled by the State, its classes, districts, circuits, its district and quarterly meetings, its president, its conference, which would resume or continue its legislative and judicial functions, acting as it had done before the alliance, and again becoming the supreme court

for the administration of the affairs of the society. But it would be altogether different with the Church of England, were it to cease to be the National church; it would be absolutely without a legislature, without any body authorized to speak or act for it, without a supreme ruler, or court, to administer its concerns or exercise judicial functions. It would not be that its machinery had grown rusty from disuse; there would be no machinery to carry on its affairs; there would be archbishops, bishops, deans, &c., but no provision for their continuance, no one to control or direct them, no one to review their proceedings, and receive appeals against their sentences. The members of the National church would, after defining who are members of the Church of England, have to make for themselves a constitution, to form a legislative body in the place of Parliament, and to confer upon some person or persons the powers exercised by the Sovereign,—the convoking of its members, the appointment of its prelates and other officers, and the determination of controversies. It is plain, therefore, that there never has been a body called the Reformed Church of England, apart from and independent of the English Nation; and if there has not been such a body, having its own organization or constitution, an alliance between Church and State could never have been contracted.

Those who hold that an alliance, or contract, or compact, exists between two originally distinct and independent bodies, called Church and State, can neither tell us by

whom this alliance or contract was effected, when it was effected, or where the terms of the contract are to be found. We know that there is a contract between the Sovereign and the Nation; we know that it was entered into in 1688, that the parties to the contract were the Prince of Orange on the one part, and the Lords and Commons of England on the other; that the terms of the contract are to be found in the coronation oath. But no one can give us similar information concerning the so-called alliance or compact of Church and State.

The theory, therefore, of an alliance between Church and State is contradicted by the civil and ecclesiastical history of England, is inconsistent with the existing state of things, and creates prejudice against the National church, because it represents members of the church as so indifferent to their religious freedom, or so greedy after temporal advantages, as to yield up their power of making their own ecclesiastical laws, and appointing their own officers, for the sake of the honours and emoluments which they now enjoy.

But if it were granted that there is an alliance between the Church and State, such as Warburton in his able work has supposed, and other writers have held, the church giving up its power of regulating its own affairs, in return for endowments and other temporal advantages, there would be no ground for the coarse language which has been sometimes applied to the National church, as "the creature,

the mistress, the slave of the State." For if the members of the church deliberately maintained the union or alliance, and the members of the commonwealth also desire its continuance, it cannot be said that the one society is enslaved by the other.

If the English Nation were either heathens, or hostile to the Christian religion, or if the State were a selfish association of men, gathered together for the purpose of mutual protection and other merely physical ends, then we should be justified in considering it discreditable to the church, that a society like it, of celestial origin, seeking the good of the spirits of men, should be in any way connected or allied with a society hostile to the head of the Christian church, earthly in its origin, low and selfish in its motives and end. Connection with such a society would indeed be degrading to the church. But we do not regard a commonwealth of Christians as no more than a mutual protection and co-operative society. When England was converted to Christianity, our Nation became a Christian church: all orders and degrees of men retained their places, but whereas before their conversion, they used their powers or devoted themselves merely to the care of men's bodies, or in favour of a false religion, they now being consecrated to the service of the true God, exercised those same powers to promote true religion and virtue. A Christian Nation is, according to the pure Christian idea, a Nation of priests and kings, called to promote in all places, and at all times,

the glory of God and the welfare of men. When, therefore, the representatives of the Nation meet in Parliament, they are commanded by no divine law to abstain from consulting together for the spiritual as well as the temporal interests of men. They are themselves called by their religion, "in all their life, in every place, at all times, in all things, actions, and studies," to promote God's glory and man's welfare; they may and should, if they deem it expedient, make such laws as they think will promote these ends.

The other capital principle of the English Reformation was that the power of making, abrogating, and changing ecclesiastical laws, belongs to the whole Church of England, and not to any part of it.

No divine of our church has written with greater clearness on this prime principle of the National church, than Hooker. He says, "It is a thing even undoubtedly natural, that all free and independent societies should themselves make their own laws, and that this power should belong to the whole, not to any certain part of a politic body, though haply some one part may have greater sway in that action than the rest; which thing being generally fit and expedient in the making of all laws, we see no cause why to think otherwise in laws concerning the service of God, which in all well-ordered states and commonwealths is the first thing that law hath care to provide for."[1]

[1] Hooker, ii, p. 449.

Again, "When all which the wisdom of all sorts can do, is done for the devising of laws in the church, it is the general consent of all that giveth them the form and vigour of the laws, without which they could be no more unto us than the counsel of physicians to the sick. Well might they seem as wholesome admonitions and instructions; but laws could they never be, without the consent of the whole church to be guided by them."[1] Again, "Our laws made concerning religion, do take originally their essence from the power of the whole realm and Church of England."[2] Again, "Till it be proved that some special law of Christ hath for ever annexed unto the clergy alone the power to make ecclesiastical laws, we are to hold it a thing most consonant with equity and reason, that no ecclesiastical laws be made in a Christian commonwealth, without consent as well of the laity as of the clergy, but least of all without consent of the highest power. For of this thing no man doubteth, namely, that in all societies, companies, and corporations, what severally each shall be bound unto, it must be with all their consents ratified. . . . Against all equity it were, that a man should suffer detriment at the hands of men, for not observing that which he never did, either by himself or by others, mediately or immediately, agree unto. . . . In this case therefore, especially, that vulgar axiom is of force, Quod omnes tangit, ab omnibus

[1] Hooker, ii, p. 431.
[2] Hooker, ii, pp. 432, 433.

tractari et approbari debet."[1] Again he says, "The entire community giveth general order by law, how all things publicly are to be done, and the king as the head thereof, the highest in authority over all, causeth according to the same law, every particular to be framed and ordered thereby."[2]

Therefore, as Hooker argues, until some divine commandment, some special law of Christ, be produced, annexing for ever unto the clergy alone, the power of making ecclesiastical laws, it is neither consonant with equity nor reason, that we should allow it.[3]

No doubt in ancient times the clergy had a far greater share in making laws for the church than they have now; they were employed to frame and devise laws, not for the church only, but also for the commonwealth, because they were the most competent persons; for the same reason they were employed as judges, and Lord Coke speaks in high terms of their learning and fitness for the office. The clergy, says Blackstone, engrossed almost every branch of learning; like their predecessors, the British Druids, they were remarkable for their proficiency in the study of the law; they were the learned men of the Nation, hence the clergy are to this day called *clerks*.[4] But it does not follow that because in ancient times they made church laws, or

[1] Hooker, ii, pp. 451, 452.
[2] Hooker, ii, p. 446. [3] Hooker, ii, pp. 450, 451.
[4] Blackstone, i, pp. 10, 11. Selden's Works, p. 2013.

had the principal share in the making of them, they should still have the same power, much less that they have a divine right to the legislative power in the church. Indeed the clergy are no longer, speaking generally, fitted either to act as legislators or judges in ecclesiastical matters.

This power of making ecclesiastical laws, which we say belongs to all members of a church, and not to the Bishop of Rome, as Roman Catholics hold, or to the bishops or clergy alone, as sacerdotalists affirm, is exercised by the English Nation through their representatives in Parliament. For this reason, when Parliament is summoned, it is to deliberate concerning "the state and defence of the Church of England."[1] And whilst it is sitting a prayer is appointed to be read "especially for the High Court of Parliament," that "God would be pleased to direct and prosper all their consultations to the advancement of His glory, the good of His church, the safety, honour, and welfare of our Sovereign and her dominions; that all things may be so ordered and settled by their endeavours, upon the best and surest foundations, that peace and happiness, truth and justice, religion and piety, may be established among us for all generations." Amongst "the matters of Parliament," says Lord Coke, "are the state of the Church of England; and the defence of the same church. And this appeareth by express words in the Parliament writ in these words,—Pro quibusdam arduis urgentibus negotiis, nos, statum, et

[1] Gladstone on Church and State, p. 239.

defensionem regni nostri Angliæ, et ecclesiæ Anglicanæ concernentibus quoddam Parliamentum nostrum, &c., teneri ordinavimus, &c. And these words, the state and defence of the kingdom, are large words, and include the rest. And though the state and defence of the Church of England be last named in the writ, yet is it first in intention, as it appeareth by the title of every Parliament; as for example,—To the honour of God and of holy church, and quietness of the people, &c."[1]

The power of making the laws of the National church, belongs only to the Sovereign and Parliament of England. So Lord Hardwicke affirms, "No new laws can be made to bind the whole people of this land, but by the King, with the advice and consent of both Houses of Parliament, and by their united authority. Neither the King alone, nor the King with the concurrence of any particular number or order of men, have this high power."

The making of our church laws by Parliament is nothing more than a return to the ancient practice of this realm, before the clergy succeeded in setting up a separate legislature for church affairs, composed exclusively of ecclesiastics. Religious affairs, says Rapin, were regulated amongst the Anglo-Saxons in their Witenagemotes; the maxim that no laws are binding but what the whole nation has consented to, has all along been looked upon in England as the foundation of liberty; ecclesiastical affairs, which concern

[1] Coke's Institutes, part iv, cap. i.

not the clergy alone, but the whole body of the people as Christians, were regulated in mixed councils, consisting of the chief men of the clergy and the nobility; it was deemed unreasonable that the clergy should have a power of making ecclesiastical laws that were binding on the laity as Christians, without the consent of the Witenagemote or representatives of the Nation; hence the Witenagemotes were for the most part mixed assemblies, where all important affairs, ecclesiastical as well as civil, were treated; these assemblies had no less authority in spirituals than in temporals.[1] And there are some instances even after the Norman Conquest, of Parliament asserting its right to regulate the affairs of the National church.

Wherefore our method of making church laws is the ancient practice of this Realm, which practice was, as I have already stated, not peculiar to England. But whilst the people of this and other Protestant countries succeeded in recovering, at the Reformation, their ancient power of making laws for the church as well as the commonwealth, and have been securing and extending their religious liberties, the people of Roman Catholic countries, who did once, like our Anglo-Saxon forefathers, make church laws in their Parliaments, have not been so fortunate, but still receive their church laws from the Pope and clergy.

The English Nation might have conferred the power of making laws ecclesiastical upon some person or persons

[1] Rapin's Hist., i, pp. 93, 123.

distinct from Parliament. In the Imperial church, by the Lex Regia, the people transferred to the Emperor their power of making all laws. So Justinian in his Institutes affirms,—"The constitution of the prince hath also the force of a law; for the people by a law, called Lex Regia, made a concession to him of their whole power. Therefore whatever the Emperor ordains by rescript, decree, or edict, it is a law."[1] In like manner might the English church have given to the Sovereign, or to the bishops, or to the clergy, or to some convocation or synod composed of clergy and laity, the power of making ecclesiastical laws.[2] But it is not desirable to have in the Realm two courts, one making civil, the other making ecclesiastical laws. There would be continual danger of misunderstandings and jealousies arising between the church legislature and Parliament, such as have occurred in other countries, followed sometimes by secessions from the National church. There is a variety of questions of a mixed nature, partly civil and partly ecclesiastical, on which disputes might arise. From all these we have been exempt through our excellent constitution, by which the ordinary legislature of the country is the source of all laws, ecclesiastical as well as civil. It is true that even in this country we see the same jealousy and dislike of Parliamentary legislation in church matters that exist in Scotland and Holland, but here it is

[1] Justinian's Inst., Lib. i, Tit. ii, De Constitutione.
[2] Hooker, ii, p. 432. Gibbon, iii, p. 171.

almost confined to the clergy of the National church, and even amongst them it has not much prevailed until quite recently. The great bulk of the laity of the church have no desire to take the making of ecclesiastical laws from Parliament.

There are other advantages attending the making of our church laws by Parliament. Parliament is composed mainly of laymen; excepting the bishops, there are no ecclesiastics; the clergy are represented, but not by members of their own order. Thus our ecclesiastical laws are made by laymen principally; and are consequently more tolerant, more liberal, and more careful of men's liberty of thought and action than laws made by assemblies composed exclusively or largely of ecclesiastics, as may be seen by comparing our ecclesiastical laws with those made by councils or synods. An assembly, like Parliament, having the affairs of an Empire on its hands, is not disposed to spend much time in making those minute regulations to which ecclesiastical assemblies are prone; and which are so destructive of individual responsibility and freedom. Hence the English clergy are allowed an amount of liberty which convocations or synods would regard with impatience and endeavour to restrain. The confidence placed by the Nation in the clergy, leaving them to a very great extent to exercise their own judgment as to the best manner of advancing the moral and spiritual welfare of their parishioners, is no doubt occasionally abused; and were a con-

siderable number of the clergy to persevere in disregarding the general sentiments of the Nation, either by preaching doctrines which are generally rejected by a Protestant Nation as erroneous, or by introducing practices offensive to the bulk of the people, or by neglecting to fulfil the ends for which they are maintained, then Parliamentary interference would become necessary. But the general body of the clergy show themselves worthy of the confidence reposed in them by the Nation, and whilst they are as active and zealous as Nonconformist ministers, who are not under the control of the Nation, they enjoy greater freedom of action and thought than is generally allowed by dissenting societies to their pastors.

Further, it has been justly remarked that Parliament is the most genuine expression of the lay mind of the country that can be obtained; thus the Church of England is eminently the layman's church.

Another advantage of our mode of making church laws is this, that it is in the power of the Nation to effect speedily such changes in the National church as it deems expedient; if any abuses exist in the church, it must be the fault of the Nation and not of the clergy. But it would be very different if the laws of the National church were made by a legislature separate from and wholly independent of Parliament, composed, as has been proposed, of three houses or estates, bishops, representatives of the clergy, and representatives of the laity. No changes could then

be effected in the church by the laity without the consent of the bishops and clergy, whereas now the laity may order even the service of the church to be altered, though every bishop oppose it; and, moreover, the influence of the laity would, as Selden observed, be very much less than that of the clergy in such a legislature.

Another advantage which I conceive our church enjoys by Parliament making our laws is this, the clergy are not tempted to become busy ecclesiastical politicians; but being under no necessity of engaging in the turmoil of electioneering, and attending a continual succession of committee and district meetings, diocesan synods, provincial synods, &c., can devote themselves to higher matters than those which frequently engross the attention of clerical or semi-clerical assemblies. Instead of wasting their time and energies in fruitless ecclesiastical discussions, the clergy of our church are free to spend their time in promoting, by their contributions to literature and activity in their parishes, the social, moral, and spiritual interests of the Nation.[1]

By our present method of making church laws, we secure the active co-operation of the laity; our ecclesiastical laws are really made by them and not by the clergy, by the whole body politic, not by a part of it, and Parliament is reminded that it is called together to promote religion and

[1] Mr. Hatch, formerly a clergyman in Toronto, states that the evils of the so-called Free Canadian Church, are over-government, a busy, meddling, and narrow ecclesiastical spirit.

piety, the moral and religious, as well as the material welfare of the Nation.

When, therefore, we speak of ecclesiastical and temporal laws, we do not mean that they flow from different sources, the former deriving their binding force or authority from a body called the Church, the latter from another body called the State; but we so distinguish our laws by the matters which they concern. We call the laws whereby the church is governed *ecclesiastical*, because they concern ecclesiastical or spiritual causes; we call them the ecclesiastical laws of *England*, because this kingdom has given to them their binding force and authority; they are called the *King's* ecclesiastical laws, because the Nation places them, as it were, in the hands of the King, requiring him to govern the church by them, as he governs the commonwealth by his temporal laws.

It is quite true that some of our ecclesiastical laws were not originally made or devised by Parliament, or by the people of this country; some came from Rome, some from Constantinople, some from Nice, some from Ephesus; some of them were originally made by the Emperors, some by the Popes, some by foreign councils, some by English synods; but they have no obligation as laws, because the Emperors, or Popes, or councils, or synods made them. Their authority and force is from the people of England; the Emperors, Popes, councils, and synods, have no more authority to make laws for us than for the angels in heaven.

All the strength or binding force which either Imperial or Papal laws, or the canons of councils have obtained in this kingdom is from the English Nation, who have received and admitted them by consent of Parliament, or by immemorial usage and custon.[1] Albeit, says Lord Coke, the Kings of England derived their ecclesiastical laws from others, yet so many as were approved and allowed here, by and with a general consent, are aptly and rightly called, the King's ecclesiastical laws of England.[2] So Lord Hale lays down that "all the strength that either the Papal or Imperial laws have obtained in this kingdom, is only because they have been received and admitted, either by the consent of Parliament, and so are part of the statute laws of the kingdom; or else by immemorial usage and custom in some particular cases and courts, and no otherwise."[3] And again he says, speaking of the ecclesiastical courts,—"Although the canon or civil law be respectively allowed as the direction or rule of their proceedings, yet that is not as if either of those laws had any original obligation in England, either as they are the laws of Emperors, Popes, or general councils, but only by virtue of their admission here." Again, "They bind not, nor have the authority of laws from themselves, but from the authoritative admission of this kingdom.[4] To the same

[1] 25 Hen. VIII, c. 21. [2] Coke's Reports, iii, p. 28.
[3] Hale's Hist. of Common Law, p. 24.
[4] Hale's Hist. of the Common Law, pp. 45, 93.

effect writes Jeremy Taylor,—The canons of general councils no more bind us than do the laws of Constantine; the ancient fathers and doctors have no jurisdiction or authority over us in England; it is unreasonable and slavish to think so; in England, except the four first general councils, which are established into law by the King and Parliament, there is no other council at all of use; where anything else is received into custom and practice of law, it binds by our reception, not by its own natural force.[1] To the same effect writes Blackstone,—The legislature of England does not, nor ever did, recognize any foreign power as superior or equal to it in this kingdom, or as having the right to give law to any, the meanest of its subjects; all the strength that either the Papal or Imperial laws have obtained in this Realm, is only because they have been admitted and received by immemorial usage and custom in some particular cases, and some particular courts; they subsist and are admitted in England not by any right of their own, but upon bare sufferance and toleration from the municipal law; they are of no more intrinsic authority here than the laws of Solon and Lycúrgus.[2]

We recognize Parliament as the highest human authority in things ecclesiastical; the canons or decrees of no Pope, council, convocation, or synod, ancient or modern, have any legal authority unless Parliament has given them force,

[1] Taylor, xiv, pp. 48, 49.
[2] Blackstone, i, pp. 79, 83.

or they have been received by immemorial custom or usage by the people of this Realm.

It may be said that the power of making our laws ecclesiastical does not wholly belong to the King, Lords, and Commons of England, inasmuch as canons made by the clergy and confirmed by the Sovereign bind the clergy. But these canons are, as Selden and Sir Michael Foster observe, merely bye-laws; they only bind the clergy who have assented to them. Corporations are allowed to make bye-laws or private statutes, which are binding on the members, when not contrary to the law of the land. In like manner the clergy have been allowed to make some bye-laws, but they derive their binding power and authority from the Sovereign and Parliament. Convocation, says Selden, has a power of making bye-laws, like a court leet.[1]

Wherefore, when Roman and other writers, thinking to reproach us, call our church a "a Parliament-religion," "a Parliament-gospel;" or dissenters say that our congregations are "statute congregations," that we can do nothing without the permission of Parliament, we do not deny it. Even before the Reformation, Lord Coke affirms that no foreign canon or constitution of the Pope bound until allowed by act of Parliament, and the laws of England had no dependance upon any foreign laws whatever, no

[1] Selden's Works, iii, p. 2024.

not upon the civil or canon law, other than in cases allowed by the laws of England.[1] We do obey the laws ecclesiastical made by the High Court of Parliament; we hold them to be on the whole as wise and good as those of any other church or religious community; and until men are persuaded that they are evil, they should obey them, as they do the civil laws of the Realm.[2] We hold that Parliament is not a mere temporal court, but has authority from the Realm of England to make laws ecclesiastical as well as civil, for clergy as well as laity.[3] Accordingly all the changes which have been made in the National church have been made by authority of the Sovereign and Parliament; even in the reign of Queen Mary, when the Romish ritual was restored, it was by Parliamentary not by Papal authority; for, as Hooker observes, the statutes against the supremacy of the Bishop of Rome were in force until repealed by Parliament, and nothing that the Papal legate said or did had any authority "without those authentical words,—Be it enacted by the authority of this present Parliament."[4]

It is therefore a principle of our church, agreeable to reason, and conducive to our religious liberty, that Parliament alone can make our church laws; no Imperial or

---

[1] Coke's Inst., part ii; Merton, cap. 9; Westm. Second, cap. 5

[2] Jewel, p. 904. Hooker, i, preface, pp. 108, 140, 141, 144.

[3] Jewel, pp. 902—906. Hooker, ii, pp. 429—435.

[4] Hooker, ii, p. 430

Papal laws, no canons of general councils or synods held in England or elsewhere, in ancient or modern times, have any authority or force in themselves over us, for so they bind us no more than our laws bind the people of France or Italy. Neither Constantine, nor Justinian, nor Gratian, nor Gregory, nor the bishops at Nice or Ephesus, nor any Emperor, council, or synod, had authority to make laws for us. Whatever authority any canons or decrees have, is from the people of England.[1] We make our own laws, and do not suffer foreigners to make them for us; we account it unreasonable and slavish, as says Jeremy Taylor, to think that the ancient Emperors, fathers, and councils have authority over us; we are, as Lord Coke says, not subject to foreign laws, but to the laws of England.[2]

It is for this cause that the National Church of England is a free and independent church, because it owns subjection to no human regulations, unless they have been enacted by ourselves through Parliament, or received and used from ancient times.

It is upon this solid and satisfactory basis that our ecclesiastical laws rest; they claim our obedience, because we have by our representatives in Parliament assented unto them. We do not pretend that our church laws have been made by any infallible person or persons, and therefore

[1] 25 Hen. VIII, c. 19. 25 Hen. VIII, c. 21, preamble. 35 Hen. VIII, c. 16. Coke's Reports, iii, p. 28. Hale's Hist. of the Common Law, pp. 24, 25.

[2] Coke's Inst., part ii; Merton, cap. 9.

cannot be improved, altered, or repealed; or that they were made by persons who enjoyed any special illumination or inspiration, and therefore the Nation must not presume to meddle with them. They have been made by the English Nation, and whenever the English Nation think it necessary or expedient to make any alterations in the faith, worship, or discipline of the church, they may do so; for we have the same authority to determine in what manner the service of God shall be performed as our ancestors had in the sixteenth or seventeenth centuries.

It may be said that if the legislative power be thus in the hands of the Nation, the faith and worship of the National church are determined by the majority; so that if the majority of the Nation were to become Roman Catholics, the National church would become Roman Catholic. Undoubtedly this is true; for the majority make the laws of the church as of the commonwealth; and Parliament may hold erroneous views concerning religion as well as concerning politics. Therefore the National church may err; but it would not be preserved from erring by placing the supreme or legislative power in the hands of ecclesiastics or congregations, for they are no more infallible than Parliament. The œcumenical council convened by the Bishop of Rome, if it be attended by every bishop in the world, has no more means of arriving at religious truth than the King, Lords, and Commons of England. Error does not affect the Nationality of the church; during the

earlier part of the reign of Henry VIII, the National church was, as for centuries it had been, in full communion with the Church of Rome; during the latter part of that reign it rejected the Papal supremacy, but retained all other Roman doctrines; in the next reign it was Protestant; in Queen Mary's reign it was again Papal; in Elizabeth's reign it was Protestant; during the Commonwealth it was Presbyterian. At some of these periods it must have been in error, but throughout all these changes it remained the National church. The Royal College of Physicians probably held imperfect and even erroneous views concerning medicine in the reign of Henry VIII, and hold very different views now, but they still remain the same corporation, and enjoy the same privileges. So with the National church; it has erred, it may err; and those who consider it in great error will not conform to it.

It is sometimes insinuated, if not affirmed, that the clergy of the Church of England are suffering under lay tyranny. No tyranny is exercised in our church, either over laymen or clergymen. The clergy must obey the laws of the legislature, but that is not tyranny, for they have assented unto them by their representatives in the House of Commons; and the ablest members of the ecclesiastical order, the bishops, have seats in the legislature. But the separate consent of the clergy is not necessary to the making of our church laws; and neither should it be, for it would be highly imprudent to give to the bishops or clergy of any

church the power of permanently resisting the deliberate wishes of the members.

It is frequently said that Parliament is no longer composed exclusively of churchmen, and the presence of dissenters is considered by some to be an objection to Parliament making laws for the church. But it must be remembered that even before the Reformation diversity of opinion on religion existed in this country among the people as well as Parliament. From the time of the Reformation to the passing of the Test and Corporation Acts, there were, amongst the members of Parliament, men very widely differing from each other, Roman Catholics, Puritans, Presbyterians; the presence of dissenters in Parliament is nothing new. Hampden, Falkland, Hyde, Deering, Selden, Grimstone, Pym, Vane, Digby, Maynard, White, Oliver Cromwell, Whitelock, Capel, differed on religious matters, just as members of Parliament do now; but they agreed on this, that there should be a National church, that it was the duty of Parliament to promote religion and virtue. If the exclusion of those who agree not with the National church from the legislature were necessary to the maintenance of a National church, it would be a sufficient argument against its establishment or continuance; religious freedom is far too great a blessing to be sacrificed for a National church. There can be little doubt that the presence of Nonconformists in the legislature is attended with inconveniences. They are inclined to be

indifferent to the welfare of the National church; and this indifference operates disadvantageously to the church in two ways,—hindering improvements being made, and creating dissatisfaction amongst its members. There is also a danger to the National church, if the Nonconformist members of the legislature hold the view which now prevails so widely, that Parliament ought not to interfere with religion; if persons holding this opinion increase in the legislature, the National church will be abolished. At the same time the presence of dissenters in Parliament is attended by the following advantages.

1.—Herein consists the Nationality of the church, that the whole Nation makes its laws; and thus it becomes the expression of the mind of the English Nation on the Christian religion. 2.—The presence of men of various religious opinions in the legislature, is a safeguard against intolerant ecclesiastical laws; if the legislature were composed only of churchmen, there might be some risk of such persecuting laws as were enacted before the Revolution. 3. —Dissenters are useful in assisting churchmen in effecting financial and such like reforms in the church, the necessity of which they are sometimes more quick to perceive than churchmen. 4.—Supposing Parliament truly to represent the opinions of the Nation, the Church of England cannot become, or long remain, the church of a minority; and not only is the church kept in accord with the views of the majority of the Nation, but through the presence of

dissenters in the body which makes it laws, it is preserved to some extent from being in violent opposition to the sense of those who cannot conform to it. This is an important advantage, for it is not sufficient that a National church be agreeable to the mind of the majority, or of those who conform to it; it must be, in its principal features, approved of by the Nation at large. Therefore it is desirable that the portion of the community who disapprove of it should be represented, that the Nation may know the sentiments of those who do not, as well as of those who do, conform to the National religion.

It is because the laws of the Church of England are made by, or derive their binding force and authority from, the English Nation, that it is called the National church. The essential difference between the National church and other churches in this Realm is, that whilst the laws of the former are made by the Nation, acting through the legislature of the country, those of the latter are made by some independent authority. For this cause, the National church may be defined to be, that church which receives its laws concerning ecclesiastical matters from the Nation, the duties of its ministers and the rights of its congregations being defined in the laws of the Realm. There are other differences between the National church and other churches or religious societies in the Realm, but they are consequences of the essential difference. For instance, the National church is protestant and episcopal; its bishops have coercive

jurisdiction; it has a liturgy, endowments, parishes; but these are accidents, not essential properties. From the time of Alfred the Great to the present there has been a National church; but it has not always been protestant or episcopal; and during the Commonwealth it had no liturgy.

The advantages which I conceive to flow from our church laws being made by Parliament may be summed up as follows: 1.—The danger of collision and jealousy between the church and the commonwealth is avoided. 2.—The whole Nation has a voice in the concerns of the church and may mould it to its will, thus making it National. 3.—The supreme power in church affairs is secured to the laity, to whom it rightfully belongs. 4.—The laws of the church, being made by an assembly in which the laity prevail, are more conducive to religious liberty, the comprehensiveness and prosperity of the church, than if made by ecclesiastics, or bodies in which they are powerful. 5.—It is an advantage to the clergy that church laws are made by the principal laymen of the Nation, relieving them, as it does, from the necessity of devoting much attention to ecclesiastical legislation.

The objectors to Parliamentary legislation in church matters are numerous, but may be divided into three classes: 1.—Roman Catholics, who hold that the supreme government of the Christian church is vested by divine appointment in the Bishop of Rome, and therefore the legislature of a country has no right to meddle with spiritual

affairs. 2.—Sacerdotalists, who hold that the supreme government of any particular church belongs by divine right to the bishops, or bishops and clergy, of that church, and therefore a body of laymen like Parliament should not make laws for the church. 3.—Voluntaries, or Utilitarians, who hold that the legislature of a Nation ought not to interfere with religion.

I do not think it necessary to examine the arguments of Roman Catholics, in support of the Papal supremacy; and I shall have a more convenient opportunity of examining the theory of sacerdotalists when I come to consider the jurisdiction of bishops. I shall pass on to the third class of objectors, who are the most numerous in this country, comprising the greater part of Nonconformists.

The utilitarian school hold 'that religion should not have the slightest connection with the State,'—'there should not exist any form of interference by legislation with religion,'—'the church should be separated from the State,'—'it is not the duty of the State to make any provision for any form of worship whatever, the State is going beyond its duty in so doing.' We who defend the principle of a National church, say that there is no divine law forbidding a Nation to make provision for their religious as well as temporal wants; that their doing so is agreeable to the genius of Christianity and conducive to the general welfare.

All nations are left free by the Supreme Ruler of kingdoms to govern themselves after that manner which

they think most conducive to the common welfare. If the people of one nation, on account of the diversity of opinions on religious matters, or from any other cause, think it expedient not to give to their legislature power to make laws in matters of religion, leaving men to gather themselves into religious societies, according to their opinions and feelings, they exercise a liberty contrary neither to reason nor to any divine laws. And if another nation exercises the same liberty, and gives to its legislature power to make laws concerning the service of God, leaving to every man his natural liberty to worship Him according to the dictates of his own conscience, that nation does nothing contrary either to reason or divine laws. Now the English Nation has from ancient times, when there was less diversity of religious opinion, acted as a National church, giving to Parliament power to make laws ecclesiastical as well as civil; and the majority thinking it conducive to the general welfare of the Nation, continues this power to Parliament. Herein the English Nation is only exercising a liberty which is left to all nations, and inasmuch as no pains or penalties are imposed on those who do not conform to the National religion, we do nothing contrary to Scripture, equity, or reason. The legislature is justified in continuing to maintain the ancient National church, and make laws ecclesiastical, so long as it considers that a National church conduces to the welfare of the Nation. The theory on which our church is founded, that the

commonwealth and the church are the same society under different names, is no longer true; but the practice which sprung out of the theory is continued, because the Nation believes that such practice conduces to the common welfare.

It is extremely improbable that the founder of the Christian religion prohibits his followers, if they are rulers or legislators, making provision for men's religious as well as temporal welfare. Amongst the Jews rulers continually interfered, as it is called, with religion; and they incurred no divine censure; when the Saviour lived, and for ages after, rulers interfered with religion, therefore, if He considered it so injurious to His religion as some do now, He would have plainly forbidden or censured the practice, lest His followers should adopt it, which He knew they would do, when they had the opportunity; but there is no such plain prohibition. Such a prohibition might have been inconvenient; it would have interfered with the progress of Christianity and civilization in the West; and at the Reformation would have impeded nations in their struggle with the priesthood for liberty. Indeed those who object to Parliamentary legislation in ecclesiastical matters, would probably disregard their theory if they were living in Italy, Austria, or Spain, and would act as our ancestors did at the Reformation. If the people of those countries desire to establish, on a lasting basis, civil and religious liberty, it is by taking the management of ecclesiastical matters into their own hands; they will more effectually

destroy the power of the priesthood by abolishing their Concordats with Rome, appointing their own bishops, encouraging liberal minded ecclesiastics, and by degrees reforming the ritual of the church, than by declaring that the legislature of a Nation should not interfere with religion.

It is a sufficient reason for refusing to abandon the ancient practice of this Realm in providing for the religious as well as the temporal wants of the Nation, maintained without interruption since the conversion of England to Christianity, that we are doing nothing contrary to any divine law, any precept of Christianity, or reason; but we are not content with this negative argument. We consider that the genius or spirit of Christianity is favourable to a National church; for Christianity teaches us that we are to serve God in all places and at all times. A man not only may, but ought to do all he can to promote the glory of the Supreme Being and the welfare of men, whether he be a private citizen or a member of Parliament,—in the great Council of the Nation as well as out of it. Nations as well as individuals are to do God service; and it is only by National acts that a Nation can do homage to the Sovereign Ruler. And so in ancient times men thought; the spirit of Christianity would not allow men to believe that when they met in the great Council of the Nation, they were to have nothing to do with religion. It was the spirit of Christianity working in nations that led to the extinction of

slavery in ancient Europe and in the West Indian colonies of England, to the elevation of woman, to the prohibition of polygamy, to the formation of parishes, to a national provision for a parochial clergy, and for the poor; and this same spirit is now leading us to make further provision for the education and general moral and spiritual welfare of the people.[1]

A remarkable change of opinion has recently taken place amongst Nonconformists, with respect to the part which the Nation, or its legislature, may take in National education; for it is now considered by many who still are opposed to a National church, that Parliament may promote education. This change of opinion strengthens the impression that the objection entertained against Parliament promoting religion is rather a prejudice inherited from times when Parliamentary ecclesiastical legislation was frequently oppressive and hostile to religious freedom, than founded in reason. Because in former times Parliament committed injustice and restrained religious freedom in maintaining a National church, therefore, many without further consideration conclude, that the maintenance of the National church is in some way inimical to freedom and productive of injustice. I hope to be able to show that this impression is groundless, when I consider upon whom the church laws of Parliament operate. It seems a mere prejudice to say that Parliament may make provision for

[1] See Mr Scott's suggestive discourses.

the education of the Nation in certain subjects and not in others; that Parliament may appoint a professor of modern history and give directions concerning his duties and emoluments, but have nothing to do with appointing, or maintaining, or controlling a professor of ecclesiastical history; may appoint a professor of Greek, but not of Hebrew,—of international law, but not of divine law,—of natural philosophy, but not of divine philosophy,—of Latin literature, but not of the Greek Testament; may appoint a man in a parish to teach children reading and writing, but not instruct and encourage the parents to love mercy, do justly, speak uprightly, hate oppression, help the needy, walk righteously; may appoint clergymen to minister to the religious wants of soldiers, sailors, prisoners, and paupers, but not of the inhabitants of a county or parish.

It is brought forward as an objection to the National church, that State interference with religion has been the cause of much cruelty and great crimes; but it is so no longer. We abhor and detest persecution on account of religion; the cruelties practiced in ancient times in Christendom are as hateful in our eyes as in the sight of the most ardent Nonconformist; and amongst the champions of civil and religious liberty are to be found quite as many churchmen as dissenters. If kings and nobles oppressed the people in former times, that is not a sufficient reason for abolishing the monarchy and aristocracy. We have taken care that

the Sovereign and nobles can no longer oppress; and in like manner we have provided that the maintenance of the National church shall infringe no man's religious liberty.

It is said that the practice of Parliament making ecclesiastical laws is injurious to religion. This we, who are members of the National church, deny; if it could be proved, undoubtedly Parliament ought to discontinue its present practice, for it is the duty of Parliament to promote religion, not discourage, much less injure it.

We are frequently reminded that in America and our colonies there is no National church, and we are called upon to follow their example. The experiment has not been long tried in those countries, and the results are not encouraging. In not one of those countries is there a church or society of any importance which is so tolerant, so comprehensive, so anti-sacerdotal as the Church of England. It is important to observe that as yet there is no sign of a church, either in America or the colonies, in which whilst the Sovereign power, that is the legislative power, is in the hands of the laity, the clergy occupy the honourable position enjoyed by the clergy of our National church. Even in the American Protestant Episcopal Church, which closely resembles the Church of England, although the laity sit in its legislature, they can make no law without the consent of the bishops, and also of the presbyters; and no layman is allowed to sit in judgment on an ecclesiastic.

From what, therefore, we see in America and in our

colonies, from the growth of sacerdotalism amongst the clergy, from the increase of what are commonly called ultramontane views in the Roman church, we may anticipate that if the National church were destroyed, one result would be a great increase of power to the clergy. In any new church rising from its ruins, the laity would occupy a very inferior position; the clergy would be less liberal, and probably less learned; and the consequence would be a less comprehensive church.

The question before the present generation with respect to a National church, is not shall there be one, but there being one, shall we maintain it. Now there is a great difference between originating a practice and continuing one, between founding an institution and maintaining an ancient one. If we were now devising a constitution for England, possibly a National church would make no part of it; but it does not follow that we should destroy the existing one. An Englishman may admire the American constitution, may prefer the republican to the monarchical system; but he may quite consistently decline assimilating our constitution to that of America. In like manner a prudent legislator may allow that he would not now set up in England a National church, yet seeing that it is generally beneficial to the Nation, that complete religious freedom is compatible with it, that a considerable body of the people are attached to it, and that every parish in the kingdom would suffer from its removal, every fibre of the constitution

feel the shock, may justly decline uprooting so venerable an institution, whose glories are the heritage of Englishmen, preferring to reform any abuses which may exist in it, and make it productive of the largest amount of good of which it is capable.

CHAPTER II.

MANNER of devising church laws—Obedience to them voluntary —Church polity changeable—The English church respects antiquity.

I NOW pass on to consider the manner in which our church laws are devised and made.

Whilst we hold that Parliament alone can make laws for the church, we think it fit that when changes in the services of the church, articles of faith, rites and ceremonies are meditated, the legislature should ordinarily consult the ablest of the clergy, who are generally most competent to give advice on these matters. The manner in which our church laws are devised, prepared, and made, is agreeable to reason, as is shown by Hooker, who states with admirable clearness the distinction between law and advice or counsel. There are, he says, three steps in the making of all laws; the first is to have them devised; the second, to sift them; the third, to pass them by the solemn voice of sovereign authority, and give them the force of laws; it is most natural that we should commit the care of devising and discussing laws to those who are wisest in those things which they concern; therefore in ecclesiastical matters the

clergy being ordinarily most skilful, it cannot seem otherwise than reasonable that unto them should be committed the care of devising ecclesiastical laws.[1] "In matters of God, to set down a form of prayer, a solemn confession of the articles of faith, and ceremonies meet for the exercise of religion, it were unnatural not to think the pastors and bishops of our souls a great deal more fit than men of secular trades and callings; howbeit, when all which the wisdom of all sorts can do is done for the devising of laws in the church, it is the general consent of all which giveth them the form and vigour of laws, without which they could be no more unto us than the counsels of physicians to the sick. Well might they seem as wholesome admonitions and instructions; but laws could they never be, without the consent of the whole church, to be guided by them."[2]

Accordingly, the practice of our church has been to commissionate the most learned divines to prepare or revise forms of prayer, &c., which are brought into Parliament, and if approved, receive the force of laws. Sometimes the clergy are assembled in Convocation to give their help and advice to the legislature; but the opinion which has been lately revived, and finds much favour among some of the clergy, that Parliament *must* consult Convocation, or the clergy, before making changes in our services, &c., is contrary to the practice of the Church of England. Parliament may, not must, consult Convocation, for as Lord Hardwicke

[1] Hooker, ii, p. 433. [2] Hooker, ii, p. 431.

observes, it is clear from the preambles of the Acts of Uniformity, that Convocation was only looked upon as an assembly of learned men, able and proper to prepare and propound regulations concerning the rites, ceremonies, public prayers, doctrines, and worship of the church, but not to enact or give them force. There are many instances of Parliament making ecclesiastical laws without consulting the clergy; and some of the most important changes effected in the church have been opposed by them.[1] Lord Coke mentions several Acts of Parliament concerning the church, to which the clergy did not give their consent; even before the Reformation, in the Parliament held in the thirteenth year of Richard II, the clergy solemnly protested by the Archbishops of Canterbury and York, that they assented to no statute restraining the Pope's authority, yet the bill then passed, and became a law.[2]

Possibly it would be an improvement if there were some body appointed by Parliament to suggest, prepare, or devise laws for the church; for the enormous amount of business continually and increasingly flowing in from all parts of the British Empire upon Parliament, as well as the indifference of some of the members to the National church, cause less attention to be paid to its affairs than is desirable.

---

[1] See Jeremy Taylor's opinion on the necessity of the Prince consulting the clergy, xiii, pp. 543—548. Burnet's Hist., ii, pp. 65, 66, 149, 150, 227. Lathbury's Hist. of Convocation, p. 147.

[2] Coke's Inst. de Asport. Relig.

In Norway, whose National church seems to resemble our own more closely than any other does, the Storthing or Parliament appoints a committee for church affairs, to which all ecclesiastical appointments and affairs are reported; and a similar plan has been suggested for adoption in this country.[1] Parliament might, without abandoning that prime principle of the National church, that its affairs are under the control of the Nation, appoint certain of its members, and add some of the ablest of the clergy, to act as a church committee or commission, whose business should be to watch over the National church, and propound from time to time laws and canons to be confirmed by Parliament. It is said that Convocation is the most proper body to do all this; and a large number of the clergy are anxious that such functions should be entrusted to it. But there are two fatal objections to Convocation devising church laws; it is a body composed exclusively of ecclesiastics; and it is elected exclusively by the clergy. These are the causes of the unfriendly spirit displayed by Convocation towards Parliament, which is considered by some of the clergy to be a body utterly unfit to meddle with the church. The existence of such a body as I have suggested would check the attempts made to set up bodies which claim to represent the church, and seek to supersede Parliament as the legislature of the National church.

[1] Forester's Travels in Norway, p. 313. I believe the late Sir R. Peel at one time contemplated it.

Having considered by whom our church laws are made, I proceed to consider on whom they operate.

They bind merely those who claim the benefits of the National church, not all the subjects of the Realm. Thus the most ample provision has been made for the freedom of religious opinion.[1] No man is now compelled to go to the parish church; to be married there, to have his children baptized there, to be buried in the church-yard; he is as free as though he were living in a country where no National church existed. A churchman is as much a free man as a dissenter; the one voluntarily complies with the orders and regulations of Parliament touching sacred things, the other voluntarily complies with the orders and regulations of some congregation or religious society. If all the sacred buildings of the National church were sold, and Parliament no longer made ecclesiastical laws, no man's religious liberty or freedom would be increased; but that of churchmen would be decreased. One man prefers receiving his rules concerning ecclesiastical affairs from the Wesleyan Conference, another from the communicants of the chapel where he worships, and the churchman from Parliament. The Wesleyan, the Independent, the Roman Catholic, may condemn the churchman on various grounds for regarding Parliament as his legislature in things spiritual, but his doing so cannot be complained of as an injustice to Nonconformists.

[1] Blackstone, (Stephen) iii, p. 48.

It may be said, that a practical injustice does arise, and in this way. Those who do not conform to the National church are, it is said, frequently treated with less respect in society than those who conform; dissenting ministers are regarded as socially inferior to the clergy of the National church. Without doubt it is highly desirable that whatever can be done by legislation to promote a kindly feeling and more intercourse between the clergy of the National church and Nonconformist ministers, should be done; but it is a mistake to suppose that if the Church of England were to cease to be National, the clergy of the new church would cease to be exclusive. It is to be regretted that there should be any in this country so narrow-minded as to speak of a man disrespectfully merely because he does not conform to the National religion. But because some churchmen in their worship of respectability regard dissenters as inferior beings, we are not justified in removing the National church. There are men of ignoble minds who cannot treat an untitled man with respect, but we are not on that account to abolish titles and distinctions. It must not be forgotten that there are narrow-minded dissenters who speak offensively of those who belong to the National church.

We have now to consider on what matters may this legislative power be exercised.

We say that the church has authority on all matters belonging to its organization; that therefore every par-

ticular or National church has authority to ordain rites and ceremonies, and change and abolish those ordained by man's authority, so that all things be done to edifying, and nothing ordained contrary to divine immutable law,[1] or tending to superstition, or burdensome to the church; in ceremonies we do not include the two sacraments which are perpetual.[2]

For the customs, rites, ceremonies, discipline, and form of government originated or sanctioned by the Apostles, are neither sufficient nor perpetually binding on the church.[3] The government of the church, says Whitgift, used in the Apostles' time, is and hath been of necessity altered, whereby it is plain that any one certain form or kind of external government perpetually to be observed is nowhere prescribed in the Scriptures, and this is the opinion of the best writers, Calvin, Bucer, Gualter, Musculus, Beza.[4] Again, he says, I find no one certain and perfect kind of government prescribed or commanded in the Scriptures to the Church of Christ; ancient writers, Justin Martyr, Irenœus, Tertullian, Cyprian, declare the church has authority to ordain orders and ceremonies.[5] Again, "The external form and kind of government in the church is not one and uniform, but variable, according to place, person, and time."[6]

[1] Articles, xx and xxxv. [2] Hooker, i, pp. 299, 343.
[3] Hooker, i, pp. 130, 131.
[4] Whitgift, iii, pp. 176, 214—219. [5] Whitgift, i, pp. 184, 212.
[6] Whitgift, i, pp. 184, 212, 213, 246, 247, 258, 414; iii, p. 428.

Hooker writes to the same effect, pointing out with his usual clearness the difference between matters of faith and matters concerning church government. Between points of doctrine or faith and matters of regiment, ceremonies, order, and government, there is a difference, for they are of a different nature.[1] The rule of faith is unchangeable, the law of order and polity not so; the matter of faith is constant, the matter of action belonging unto church polity, changeable; what we are to believe is always the same, what we are to do daily, changes; articles of belief are fully and plainly taught in Scripture, matters of ecclesiastical polity not so prescribed; touching things which belong to discipline and outward polity, the church in the Apostles' time did make canons, laws, and decrees, which authority it hath now; laws so made touching matters of order are changeable by the power of the church, articles concerning doctrine, not so.[2] "To make new articles of faith and doctrine no man thinketh it lawful; new laws of government, what commonwealth or church is there which maketh not either at one time or another."[3] Again, "We must note, that he which affirmeth speech to be necessary among all men throughout the world, doth not thereby import that all men must necessarily speak one kind of language; even so the necessity of polity and regiment in all churches may be held without holding any one certain

[1] Hooker, i, pp. 299, 343.

[2] Hooker, i, pp. 297—301, 329, 346, 440. [3] Hooker, i, p. 329.

form to be necessary in them all."[1] "I therefore conclude," says Hooker, "that neither God's being the author of laws for government of His church, nor His committing them unto Scripture, is any reason sufficient wherefore all churches should for ever be bound to keep them without change."[2]

We hold that whilst the church has no authority to add to or diminish articles of faith, we consider that the church has authority in matters of church government, rites, and ceremonies, which may be changed as times and places may require.[3] As Hooker says, the orders "which were observed in the Apostles' times, are not to be urged as a rule universally either sufficient or necessary."

When, therefore, it is objected against our church, that in many particulars it differs from the church in primitive or Apostolic times, we readily admit that it does. We, denying that there is set down in Scripture a form of church-polity or government, universally and everlastingly to be observed,[4] have laid aside Apostolic and primitive practices, customs, and rules, and ordained new ones in their stead.[5] We have no kiss of peace, no love feasts, no order of deaconesses or widows;[6] we abstain not from things strangled or blood; our bishops and deacons differ

---

[1] Hooker, i, p. 296. [2] Hooker, i, pp. 330, 348.
[3] Hooker, i, p. 329.
[4] Hooker, i, pp. 301, 331, 348, 349. [5] Whitgift, i, pp. 200, 201.
[6] Hooker, i, pp. 130, 131.

much from those of the early church; anciently the people elected their ministers, with us they do not;[1] originally each church was an ecclesiastical republic, the bishops, presbyters, deacons, and people of a diocese managing their own affairs, with us it is not so;[2] originally bishops had only purely spiritual power, with us they have coercive jurisdiction; in ancient times each bishop was as a prince in his own church, controlled by and accountable to no other bishop; with us each bishop is subordinate to his archbishop, and the archbishop to his superior, the Sovereign of the Realm; in the primitive church laymen were made bishops,[3] we require a man to be first a deacon, then a presbyter or priest, before he can be a bishop; ancient canons strictly forbad the clergy holding any civil office or using other than spiritual power,[4] with us they are privy councillors, lords of Parliament, justices of the peace; in the early church laymen were allowed to pray and preach in the public congregation, we do not allow them. In these and other particulars our church differs from the primitive; and we justify our differing, on the ground before stated, that the church has now the same liberty and power to make regulations touching the polity of the church, that it had in the first, second, third, or any other

[1] Barrow, vii, pp. 229, 377.

[2] Barrow, vii, pp. 367, 489. Bingham, book ii, cap. iv, s. 4. Barrow, pp. 302, 486, King on the Primitive Church, pp. 21, 91.

[3] Bingham, book ii, cap. x, sec. 7.

[4] Apostolic Canons, 4, 72, 74. Hooker, ii, pp. 300, 321, 322.

century. The canons, constitutions, and laws, says Hooker, which have been at one time meet, the church is not bound always to follow; it is not necessary that these and the like orders should be everywhere still observed.[1]

Our church, however, has not departed from the primitive church, in these particulars, without good reason; and the constitution of the Church of England is as much more excellent than that of the early church, as is the present constitution of our commonwealth than that in the time of our Norman or Tudor kings.

Those who object to our National church that we have officers not mentioned in the New Testament,—as archbishops, lord bishops, deans, chancellors, archdeacons, &c., and that we in other respects differ from Scripture, do that which they blame in us. They also have customs not warranted by Scripture; they allow things forbidden, and practice not things which are enjoined, by Apostles. Surely if churches have power to lay aside Apostolic customs, they have power to ordain new ones in their stead. The church being a society which dieth not, hath always power, as occasion requireth, to make new laws, ratify, modify, or abolish old ones, concerning matters of outward order or polity.[2]

We do not deny that there are some things which all Christians are bound to observe until the world's end;

[1] Hooker, ii, p. 322.

[2] Hooker, i, p. 439; ii, pp. 300, 301.

there are some matters of external polity over which men have no authority. For instance Parliament has no power to abolish public prayer, or praise, or the sacraments; these are of perpetual obligation; but Parliament may, as it does, direct the clergy when offering up prayer or praise, or administering the Eucharist and Baptism, to wear certain vestments, and use a certain form of words.

Many have conceived a prejudice against the authority of the church, and think that we make too much to depend upon it; nor should we be surprised at the existence of such a prejudice, seeing that by the church, hierarchical writers mean the clergy. But we reject that most pernicious doctrine; by the church we mean the whole community, laity as well as clergy; and by the authority of the church we only mean that power or authority which all free and independent societies have to make laws for their own government.

But although our church claims this power of legislating in all external matters, and has accordingly laid aside old rites, customs, ceremonies, and forms of government, ordaining new ones in their stead, it uses this liberty with care. In no respect does the Reformation of our church more differ from that effected in the Scotch and foreign churches than in the retention by the Anglican reformers of old rites and ceremonies. We retain the ancient order of prelates; our services in their words and structure closely resemble those of the early and mediæval ages; our

churches remain much as they were in times past; our clergy wear the ancient vestments,—the surplice, the cope, the stole, the hood, the rochet, the chimere. Our reformers displayed as much cautious wisdom in retaining ancient innocent rites and ceremonies, as boldness in rooting out the pernicious sacerdotal principles and corrupt practices of the unreformed church. They did not seek to erect a new church; for to reform ourselves is not to sever ourselves from the church we were of before.[1] We do not lightly esteem what has been allowed as fit by antiquity, and the long continued practice of the whole church, from which we do not think it desirable or safe unnecessarily to swerve.[2]

To sum up the preceding observations concerning the legislative, that is, the supreme power in church matters: 1.—We hold that the authority to make laws, belongs not by divine appointment to any particular person or persons in the church, as sacerdotalists affirm, but to all members of the church. 2.—The Church of England being regarded as identical with the commonwealth of England, this legislative power is exercised with us by Parliament. 3.—We consider that when articles of faith or services are to be framed it is reasonable and proper that the ablest of the ecclesiastical order should be consulted and used. 4.—The church laws of Parliament do not bind all the subjects of this Realm, but only those who claim the benefits of the National church. 5.—This legislative power may be

[1] Hooker, i, p. 291. [2] Hooker, i, p. 437.

exercised on all matters affecting the polity of the church.

Having considered in whom the legislative, which is properly the supreme power, is vested, I proceed to consider by whom the laws of the church are executed. It would be of little use to make laws if no one were appointed to execute them, or see that they are executed.

CHAPTER III.

THE Sovereign supreme head of the Church of England—Has no pastoral authority.

I SHALL now consider the Royal Supremacy, which has been esteemed, from the time of the Reformation, a fundamental principle of our constitution.

The many full, positive, and express Parliamentary declarations, attended with a series of public, solemn, and national transactions, through the reigns in which the Reformation was begun, carried on, and completed, prove the importance which has been attributed to the maintenance of the supremacy of the Sovereign over the church.[1] No doctrine is so comprehensively, strongly, and frequently asserted and guarded in the statutes, articles, canons, and authorised documents of the church, as the royal supremacy.[2] The judges have at various times in their resolutions and judgments, and our greatest legal writers have affirmed, that by the ancient common laws of England, as well as by various statutes, the Sovereign of England has supreme

[1] Sir M. Foster, p. 26.

[2] 25 Hen. VIII, c. 19, 20, 21. 26 Hen. VIII, c. 1. 1 Eliz., c. 1. Article 37. Canons 1, 2, 36. Johnson's Vade Mecum, i, 26.

jurisdiction or dominion over the English church.[1] Before any man could become a clergyman in the church, he was formerly required to take the oath of the King's supremacy, and until recently the clergy were required to acknowledge the Sovereign to be under God the only supreme governor of this Realm, as well in all spiritual or ecclesiastical things or causes as temporal.[2] The article[3] affirming the supremacy of the Sovereign is still subscribed by the clergy; but the oath of supremacy was altered in the reign of William and Mary, and again in 1858; though it continues to be called "the oath of the Queen's supremacy," it merely denies the supremacy of any foreign prince, person, or prelate.

This prime doctrine of the reformed Anglican church has been vehemently attacked by Roman writers, misunderstood and misrepresented by Protestant dissenters, explained away and impatiently tolerated as little better than an usurpation, by those divines in our church who hold sacerdotal views. But it shall be my endeavour to show that it is defensible upon free and rational principles, that it is contrary to no doctrine, precept, or principle of the Christian religion, that it has proved highly conducive to good order and religious freedom, and that it is the main bulwark of our liberties against the encroachments of ecclesiastics.

It must be allowed, however, that had the Reformation

[1] Coke's Reports, iii. Cawdry's case.

[2] Canon xxxvi. [3] Article xxxvii.

been effected when Sovereigns of less arbitrary temper, or of less capacity and determination, than Henry VIII and his daughter Elizabeth, were on the throne, the royal supremacy might never have been known; the supremacy of the priesthood might have been destroyed, and the rights and liberties of the laity been recovered, without making the Sovereign supreme over the church. And further, it must be allowed, that the royal supremacy, as understood and exercised before the Restoration, was not, as already stated, sufficiently limited and defined. The prerogatives enjoyed by the Tudor line were too extensive; and the evil use made of them by the Stuart family, caused the Nation to impose those restrictions on the executive power of the chief magistrate, which have brought the constitution of our church and Realm to its present state of excellence.[1] Still, our ancestors adopted the simplest and most effectual method of destroying the supremacy of the clergy, when they placed over them as their supreme ruler and judge, a layman, the Sovereign; and at the same time they attached the clergy to the supreme magistrate of the Nation, by giving to him the appointment to the chief dignities of the church.

Having abolished the supremacy of the Pope, to whom all appeals had formerly been carried, it became necessary for our ancestors to vest in some other person or persons, the supremacy exercised by him. It being unsafe to trust

[1] Fortescue de laudibus legum Angliæ, p. 44, note.

supremacy over the church to an ecclesiastic or ecclesiastics, in what hands was it to be placed? The reformers considered it natural, reasonable, and most consistent with the dignity of the Sovereign and welfare of the church, to give to him ecclesiastical supremacy, so that as he was the head of the commonwealth, he should be head also of the church, the supreme ruler not only of the laity, but also of the clergy. For as the King was charged with the execution of the civil laws, it was deemed expedient and proper that he should have authority and power to see that the ecclesiastical laws also were faithfully executed.[1]

As has been before stated, our reformers regarded church and commonwealth as the same society under different names; and their idea was that as the King governed the commonwealth according to the civil laws, so he should govern the church according to the ecclesiastical laws; the making of all laws they gave to Parliament, the supreme executive power they gave to the Sovereign.[2] "The civil ministers under the King's Majesty," says Cranmer, "in this Realm of England, be those whom it shall please his Highness for the time to put in authority under him, as, for example, the Lord Chancellor, Lord Treasurer, &c. The ministers of God's word, under his Majesty, be the bishops, parsons, vicars, and such other priests as be appointed by his Highness to that ministration; as, for example, the Bishop of Canterbury, the Bishop of Duresme,

[1] Whitgift, iii, pp. 198, 302, 303. [2] Blackstone, i, p. 338.

the Bishop of Winchester, the parson of Winwick, &c., all the said officers and ministers, as well of that sort as the other, be appointed, assigned, and elected, and in every place, by the laws and orders of kings and princes."[1] So Whitgift speaks,—The civil magistrate doth govern the ecclesiastical state, punishes disorders, calls men to account for their faults by under officers, archbishops, bishops, and others; as he governs the civil state by civil magistrates.[2]

I may observe that in all Lutheran states, as well as in England and Russia, the supreme civil ruler is the supreme visible ruler of the church; so the King of Prussia is the head of the Evangelical church of Prussia; the King of Sweden the head of the Swedish church; the King of Denmark the head of the Danish church; the Czar is the head of the Russian church.[3] But where Calvinistic or sacerdotal views have the sway, as in Scotland, Holland, and France, the church being regarded as a body separate and distinct from the commonwealth, though allied or connected with it on certain terms, the supreme ruler of the Nation has no such supremacy over the church. In England the commonwealth being regarded as the church, the head of the one is the head of the other.

The ground upon which we defend the supremacy of the Sovereign over the church, is as follows.

---

[1] Burnet's Coll. of Records, i, p. 321. [2] Whitgift, ii, p. 367.

[3] In Mecklenburg-Strelitz, the Duke is the bishop.—Stanley's Eastern Church, pp. 51, 320, 394. Mosheim, iv, pp. 270, 271.

Every man not yet subject to another has power over himself, which power if he think fit he may give to another person or persons; and an independent National church "hath," as Hooker says, "under God, supreme authority, full dominion over itself."[1] Every independent society, whether it be religious or secular, has power to give to any person or persons, this supreme authority or dominion over itself,—authority to summon the members, to preside in its assemblies, to appoint officers, to hear and settle disputes arising amongst its members. In the exercise of this power, societies or churches recognize different persons as their chief rulers; the Romanists acknowledge the Bishop of Rome to be their earthly head; the Greek church, the Patriarch of Constantinople; the Nestorians, the Patriarch of Diz; the Armenians, the Patriarch of Echmiadsin; the Copts, the Patriarch of Alexandria; the Scotch Kirk, their General Assembly; the English Wesleyans, their President or Conference. This supreme authority or dominion over itself the Church of England is at liberty to confer upon any person or persons whom it considers most likely to exercise it beneficially, whether laymen or ecclesiastics. For we deny that such supreme authority belongs by divine right either to the Bishop of Rome, as Roman Catholics hold, or to the prelates of the church, as some Episcopalians affirm, or to the clergy in synod assembled, as the Puritans held,[2] or to

[1] Hooker, ii, p. 398. [2] Hooker, ii, p. 397.

the communicants of any particular congregation, as Independents believe. God has nowhere given to the Bishop of Rome, or the clergy, or synods, or communicants, supreme dominion over the church; nor has He declared that any particular person or persons may not have it.[1]

Our ancestors being then free to confer upon whomsoever they pleased, supreme dominion over the church, declared that the Sovereign should be the supreme head in earth of the Church of England, its supreme ruler, governor, and ordinary; and they gave to him authority to exercise this ecclesiastical supremacy according to the laws of the Realm. "The Pope," says Plowden, "claimed to be supreme ordinary, but Parliament gave to the King such jurisdiction as the Pope had exercised, and he is now the supreme ordinary of the church."[2] The Nation makes the laws, ordering how all things are to be done in the church; the King is charged to see that these orders are obeyed, and power is given to him to secure obedience. "The entire community," says Hooker, "giveth general order by law, how all things publicly are to be done, and the King as head thereof, the highest in authority over all, causeth, according to the same law, every particular to be framed and ordered thereby."[3] As the Nation has conferred this power, so the Nation may abridge, enlarge, or entirely take

[1] Hooker, ii, p. 398.
[2] Plowden's Commentaries, pp. 497, 498.
[3] Hooker, ii, p. 446.

it away; and it can be exercised only according to the laws of the Realm.

The Sovereign is not only the chief, but properly the sole magistrate of the church and commonwealth; all officers, whether ecclesiastical or civil, exercise their coercive power, which is properly jurisdiction, by commission from and in subordination to him.[1]

There are some who object to our making the Sovereign supreme head of the church, because, they say, there is a divine Head, and therefore there cannot be another. With as much reason might they say, the kingdom of England has a divine Ruler, therefore we cannot have a King.

The Church of England, like any other outward, visible society, must have laws; and having laws, there must be some appointed to see that they are executed; and as doubts concerning those laws, as well as disputes will arise, there must be some person or persons authorised by the whole body, from whom they shall receive a final settlement. The divine Head of the Christian church is not on earth to order these things. When differences arise amongst the members of His church, He does not, from His throne on high, give sentence, admonish, suspend, depose, or correct the erring. When abuses arise, or there is a general corruption of the clergy, and they will not reform themselves, He does not exercise His supreme power in a

[1] Blackstone, i, pp, 250, 278.

miraculous manner to cleanse and reform His church. It cannot be His intention that His church should be a scene of disorder; and if He neither interposes Himself, nor has appointed any particular person or body of men to settle these matters, we must conclude that He intended His church to appoint such persons as they might think most qualified, to do those things which are necessary to the welfare and good order of His society. If the members of the Canadian Episcopal Church considered that it would be for the well-being of their church to give to the Sovereign of England the selection of their bishops; or if the Wesleyan Methodists of this country agreed to refer all the disputes and controversies arising in their society to the Lord Chancellor of England, considering so eminent a person most fit to settle them, they are exercising a power which the divine Head of all Christians intends that they should exercise.

What, then, is there to hinder the Church of England making the Sovereign of the country its chief ruler, as an outward visible society? How is the divine Head of the catholic church disregarded by one branch of His church, in the exercise of that power with which He has endowed it, transferring from itself to one of its members, power to appoint its officers, punish those who break its laws, and settle its disputes? Without doubt the divine Head of the catholic church is not only dishonoured, but insulted, by the supremacy exercised by our Sovereigns, if He has, as

some say, ordained that the Bishop of Rome, or the bishops, or presbyters and lay elders, or communicants of particular congregations, should govern His church; and our Nation has been for three centuries flagrantly violating the divine intention by not allowing such divine appointment to take effect. But we deny that God has given to any order of men the inalienable right to govern His church. Neither is there any divine law forbidding kings doing those things which our Sovereigns do; nay, we have to some extent a divine approval for what we have done, inasmuch as amongst the Jews, we find their kings exercising ecclesiastical supremacy, without any indication of divine disapproval. But, between the supremacy of the Jewish kings and that of our Sovereigns, there is this difference, the former assumed it, acting on the general persuasion that rulers had the care of the religious as well as civil affairs of their subjects; the latter enjoy it as a gift of the English Nation, by whose will and according to whose laws they exercise it. It cannot be argued, as some have done, that as the kings amongst the Jews were supreme in Church and State, making provision for the religious as well as temporal welfare of the Nation, therefore the rulers of Christian commonwealths must follow this divine example. For every Nation is left free to govern itself according to that form of government which it thinks best adapted to promote the common good; as it may give to its legislature power to make ecclesiastical as well as civil laws, so may it give

to its chief ruler power to execute them; the supremacy of our Sovereigns is altogether a human right.[1]

Some Protestants have taken offence at our calling our Sovereign supreme head of the Church of England, as though we did in some way dishonour Him, whom all Christians acknowledge to be their Lord and Head. For the title we do not strive; Elizabeth, in deference to the scruples of some laid it aside; but we maintain and defend the pre-eminence which the title implies.[2] Surely every reasonable man knows that when we say, the King is the head, or supreme ruler and governor of the Church of England, we mean immediately under Him who is the divine Head of all Christian people. When we say that the Sovereign is the head of the National church, we do not mean that there is no one superior to him, which would be absurd and impious, but that there is no earthly prince, person, prelate, potentate, council, synod, or convocation, superior to our Sovereign; there is no one on earth with power or authority to command or control him or reverse his sentence. To give to the King the title head of the church is no more an offence than to call a man lord; for every man knows that when we call a fellow-creature lord, we are using the word in a different sense from that in

[1] Hooker, ii, p. 398.

[2] The title is, however, still used; in 1703 Parliament addressed Queen Anne as supreme head on earth of the Church of England; and in 1717 the clergy in Convocation used the same language.—Jewel, p. 1213. Burnet, ii, part i, pp. 602, 603.

which we use it, when addressing the Supreme Being. When the members of an university, or college, or company, call their chief officer their head or master, will any one say that He who is the Head and Master of all Christians is dishonoured? God is the Sovereign Lord and King of England, and of all the kingdoms of the earth; yet it is lawful for us to have an earthly King, and call him our Sovereign Lord the King; so it is lawful to call our Sovereign head of the Church of England, though Christ is the supreme Head of the catholic church.

When we consider what the Sovereign does, by virtue of the royal supremacy, it will be seen that it entirely differs from that of the divine Head of the church.

Some, without sufficient consideration, have likened the royal to the Papal supremacy, speaking of our Sovereign as stepping into the shoes of the Pope. Between the supremacy of our Sovereigns in ecclesiastical matters, and that of the Bishops of Rome, there are these important differences. The Papal supremacy in this country was usurped, gained by craft, subtlety, and threats, and supported by ignorance; the royal supremacy is conferred by the English Nation, by whose free will it is enjoyed; the former is claimed as a divine indefeasible right; the latter is claimed as the free gift of a free Nation; the former was exercised not according to the laws of this Realm, and claiming a divine origin, ever scorns to be regulated by human laws; the latter is exercised according to the laws

of the English people, by whom it may at any time, if they see fit, be enlarged, abridged, or abolished; the former rests on a series of weak propositions, not one of which can be satisfactorily proved; the latter rests on a free and rational principle; the former is necessarily detrimental to freedom, especially in religion; the latter is favourable to it.

There are many persons who imagine that the royal supremacy was never heard of before the Reformation, that it was devised by that tyrannical monarch, Henry VIII. Our Kings do no more than kings did amongst the Jews, and the Emperors in the Imperial church. It is well known that the Emperors called ecclesiastical councils, presided in them, appointed ecclesiastical officers, received appeals, gave final sentence in ecclesiastical causes, and deposed ecclesiastics.[1] Even in England, before the Reformation, our Kings had exercised supremacy over the church. The Act of Supremacy, passed in the reign of Henry VIII, did not introduce into our church an entirely new principle. Lord Coke, Lord Hale, and other great authorities have proved that all that Henry VIII did was to re-assert for himself the supremacy which our Sovereigns had claimed and occasionally exercised, and compel the clergy formally to acknowledge him to be under God their supreme head. The notions, says Professor Brewer, that the royal supremacy leapt fully armed from the brain of Henry VIII, that the

[1] See Stanley's Eastern Church.

clergy were irresponsible even in spiritual matters, are idle phantoms. Long before the Reformation our Sovereigns had appointed bishops, granted ecclesiastical jurisdiction, and exempted from the same; and therefore must have been regarded as being the fountain of ecclesiastical jurisdiction. It was resolved, says Lord Coke, by all the judges in the reign of Queen Elizabeth, that the Act restoring ecclesiastical jurisdiction was no new law, but declaratory of the old.[1] Again, he says, all the judges agreed that the King or Queen of England may appoint commissioners to try ecclesiastical causes, by the ancient prerogative and law of England.[2] Again, he says, by the ancient common laws of this Realm, by the resolutions and judgments of the judges and sages of the laws of England, in all succession of ages, by authority of many Acts of Parliament, ancient and of later times, the King of England has supreme ecclesiastical jurisdiction.[3] Lord Hale says, "Even by the common law, the Kings of England, being delivered from Papal usurpation, might grant a commission to hear and determine ecclesiastical causes and offences, according to the King's ecclesiastical law."[4] Again, he says, "Ordinary ecclesiastical jurisdiction, or rather jurisdiction touching ecclesiastical matters, anciently belonged to the crown, but was for some time usurped by the Pope; so by the statute

[1] Coke's Reports, iii, p. 26.
[2] Coke's Reports, iii, p. 27. [3] Coke's Reports, iii, p. 77.
[4] Hale's Hist. of Common Law, p. 26.

of 26 Henry VIII, it was again restored to the crown."[1] Lord Cairns, speaking of the alterations in the so-called oath of the Queen's supremacy, lays down the same doctrine. He says,—"The supremacy of the Sovereign depends upon a sanction very much higher than the obligation of an oath. Sir Matthew Hale and Lord Coke both say that the royal supremacy rests on the common law, and requires no statute to support it, . . . the law would remain binding upon every subject of the crown, whether he did or did not take any oath or declaration respecting it."

It appears, therefore, that the Sovereign had, by the ancient laws of England, supreme ecclesiastical jurisdiction, and therefore the royal supremacy does not rest solely upon the statutes passed at the Reformation. But it is certain that the clergy did not admit that the Sovereign had any right to meddle with spiritual affairs; they regarded the Pope as superior to the King in ecclesiastical matters. Before the Reformation, the form of bidding prayer ran thus,—Ye shall pray for the Pope, the cardinals, the archbishop and bishops, and for all priests; and also ye shall pray for our liege lord, the King, &c.[2] Now we pray,—First for the King, as supreme governor in this Realm over all persons, in all causes ecclesiastical as well as temporal, then for the archbishops and bishops of the church, &c.

---

[1] Hale's Analysis of the Law, p. 12.—See the Constitutions of Clarendon.

[2] Burnet's Coll. of Records, ii, p. 145.

It will help towards a right understanding of the royal supremacy, first to state what by our laws the Sovereign can not do in our church. Our Princes may not minister divine service, for they are laymen, and we allow none but the clergy to minister in the congregation. The Sovereign governs, not ministers; overlooks and sees that the clergy, archbishops, bishops, priests, and deacons, obey the ecclesiastical laws of the Realm; but he cannot himself preach, administer sacraments, ordain ministers, or consecrate bishops.[1] That which the supreme magistrate hath to do, says Hooker, is to see that the laws of God, touching His worship, and all matters and orders of the church, are duly observed, to see that every ecclesiastical person do his office, and to punish those that fail.[2] "The Christian king or supreme magistrate," says Jeremy Taylor, "can do every thing, as Comatenus said, only except the sacred ministries."[3] In other words, the Sovereign has no pastoral authority; he may give authority to a clergyman to preach in a certain place, but he cannot preach himself; he may command the Archbishop of Canterbury to make a certain man a bishop, but he himself cannot make a bishop.

---

[1] Article xxxvii.—Elizabeth's Advertisement. Jewel, pp. 958, 959.
[2] Hooker, ii, p. 436. [3] Taylor, xiii, pp. 489, 535.

CHAPTER IV.

THE Sovereign appoints the bishops—Has supreme ecclesiastical jurisdiction—Gives final sentence in ecclesiastical causes—Convenes convocations.

AS supreme ordinary, ruler, or head of the National church, the Sovereign—

I.—Appoints the bishops.

II.—Has supreme ecclesiastical jurisdiction.

III.—Gives final sentence in all ecclesiastical causes.

IV.—Convenes all ecclesiastical convocations.

I.—In early times the bishops, and indeed all the clergy, were elected by the people, by whose free bounty they were supported, and to whom the appointment of their ecclesiastical officers naturally belongs.[1] These popular elections were disgraced with such scenes of violence and corruption,[2] that Gregory Nazianzen says, prelacies were gained rather by wickedness than virtue, and episcopal thrones belonged rather to the powerful than the worthy. For which reason

[1] Eusebius, Lib. vi, c. 28. Socrates, Lib. ii, c. 9. Hooker, ii, p. 309. Barrow, vii, pp. 229, 371—375. Bingham, book iv, cap. ii, s. 3. Gibbon, ii, pp. 192, 193; iii, p. 28, note *a*. King on the Primitive Church, pp. 20, 89.

[2] Gibbon, iii. p. 29. Bingham, book iv, cap. ii, ss. 15, 16.

he desired that elections of bishops should rest only or chiefly in the best men, not in the wealthiest and mightiest, the most impetuous and unreasonable of the people, most easily bought and bribed.[1] As the bishops rose in power, they regarded these popular elections with less favour, and endeavoured to abridge this ancient privilege of the people. Partly on account of the tumultuous proceedings of which Gregory Nazianzen complains, it was ordered by Justinian, that the inferior sort of the common people should have no voice in these elections, which were to be confined to the clergy and the chief men of the city.[2] This was the law of the Imperial church.

But on the breaking up of the Roman Empire, the Gothic kings in France and Spain, claimed the right of confirming the elections of bishops; and on the ground, perhaps, that they had founded, endowed, and enriched bishoprics; they also claimed the right of granting the temporalities.[3] After a time, Christian princes took entirely into their own hands the appointment of bishops.[4] So in England, from Anglo-Saxon times, our Sovereigns generally nominated to bishoprics, until the clergy succeeded in wringing from King John the ancient privilege of the crown. That mean Monarch granted to the cathedral clergy, the right of no-

[1] Barrow, vii, pp. 229, 230.
[2] Bingham, book iv, cap. ii, s. 18. Gibbon, iii, p. 28.
[3] Bingham, book iv, cap. ii, s. 19. Blackstone, i, p. 377.
[4] Barrow, vii, p. 381.

minating their bishops. All archbishoprics and bishoprics in England, says Lord Coke, were founded and endowed by the King, who is the patron of them all, as appears by our books, Acts of Parliament, and history; Henry I. was asked by the Pope to make them elective, and refused; but King John granted that they should be.[1] At the Reformation the ancient right of nomination was restored to the crown, by the statute 25 Henry VIII; but the old form of election by the cathedral clergy was continued. Thus the election was a mockery, for which reason in Edward VI's reign an Act was passed setting forth that such a way of choosing bishops was tedious and expenceful, that there was only the mere *shadow, colour, and pretence* of an election, wherefore bishops should hereafter be made by the king's letters patent. This statute was repealed by Queen Mary, on the restoration of the Pope's supremacy, and the clergy again elected the bishops. In the next reign, the ancient right of naming bishops was restored to the crown, but unhappily instead of Edward VI's statute, that of Henry VIII was revived.[2]

Without doubt, the present practice of the Sovereign sending a letter to the cathedral clergy, with leave to elect only the person therein named, is, as Cranmer and the Legislature in the time of Edward VI declared, a mere

[1] Coke's Institutes, 94 *a*, 97 *a*, 134 *a*, 344 *a*. Blackstone, i, pp. 377—379; iv, p. 107. Stephens's Ecc. Laws, p. 143.

[2] Coke's Institutes, note 215. Blackstone, i, pp. 377—380; iv, p. 429. Burnet, ii, pp. 68—71, 601.

shadow, colour, and pretence; and it has been censured as dishonest, not reputable to the church,[1] a lie,[2] an involuntary election being little more than a mockery;[3] it were better abolished. "I see no cause," says Hooker, "but that the king's letters patent alone might suffice well enough to that purpose, as by law they do in case those electors should happen not to satisfy the king's pleasure."[4]

In conferring upon the crown the right of appointing the bishops of our church, our reformers are justified by the following considerations. 1.—Our Sovereigns had founded, endowed, and enriched bishoprics, and therefore it seemed natural that they should be the patrons thereof.[5] Mr. Justice Coleridge says, "The recitals of ancient statutes, and the language of our text books, place the right of the Monarch much more on patronage than on imperial power; the bishoprics were donatives in the commencement, because the crown had founded and endowed them." 2.—In ancient times the nomination to bishoprics had been enjoyed by our Sovereigns; and one of the first steps taken by the Bishop of Rome and the clergy, in order to become independent of civil rulers, and entirely exclude the laity from any share in church matters, was to get into their own hands the election of bishops; it seemed therefore to our ancestors, that the most natural course, in order to reduce

[1] Sir Michael Foster. [2] Dean Hook.
[3] Burnet, ii, p. 71. Blackstone, i, p. 379.
[4] Hooker, book viii, cap. vii, s. 3. [5] Hooker, book viii, c. 77.

the clergy to their proper subordination to the supreme ruler of the Nation, was to restore to him the nomination to bishoprics. 3.—Our Sovereign alone has power to make lords temporal, it seems, therefore, reasonable that he should choose the bishops, who are lords spiritual of the Realm.[1] 4.—And, further, our bishops are persons of great influence in the commonwealth; they are members of the House of Lords, have ample revenues, bestow deaneries, canonries, archdeaconries, valuable livings, and exercise by their patronage and the general respect entertained for their order, considerable power over the clergy; it is desirable that persons of such dignity and influence should be attached to the supreme magistrate of the Nation, by receiving from him their promotion.

It has been the practice for many years, for the Prime Minister to select bishops and recommend them to the Sovereign, by whom they are appointed. The advantages of this method are great. One man, the Sovereign's principal adviser, is responsible to the Nation for the fitness of the persons raised to the episcopal bench. He may be questioned by Parliament for any appointment, and if he recommend to the Sovereign unfit men for the episcopal office, the Nation can readily, through Parliament, express in an authoritative manner its dissatisfaction. As the Prime Minister is the person in whom the Nation has placed the administration of the country, it may be

[1] Hooker, book viii, c. 7.

said that our bishops are appointed by the Nation. Nor is there any one ordinarily more likely to give effect to the wishes of the Nation, and select the best men for bishops, than the Prime Minister; as a layman he is commonly free from theological prejudices; as the Sovereign's chief minister, responsible for the administration of the Nation's affairs, it is his interest to make appointments satisfactory to the Nation at large.

Our present method of appointing bishops secures to the laity influence over the episcopal order, and through the bishops over the whole body of the clergy, for in our church the bishops alone are allowed to ordain ministers. The bishops have considerable influence in ecclesiastical affairs, and therefore it is important that the Nation should have the power of appointing men who will use that influence in accordance with the National mind. If the Nation were desirous of effecting important reforms in the church, it would be desirable to have the advice and co-operation of some, at least, of the prelates. It is now in the power of the Nation to place on the episcopal bench men who will give such advice and co-operate heartily with the Nation. So Cranmer, Ridley, Latimer, Hooper, Jewel, and others were chosen to forward the Reformation; so Tillotson, Burnet, and others, after the Revolution, were selected as being favourable to the design entertained at that time for the comprehension of Nonconformists within the National church.

Thus, in our church, the laity enjoy the exclusive right of selecting the bishops; so that however disliked a clergyman might be by his order, they cannot prevent the mitre being placed on his head, if the Sovereign commands him to be consecrated; the will of the Nation must prevail. This is a striking instance of the power of the laity in our church; in the American Episcopal church, the laity cannot appoint bishops without the consent of the clergy; and in the proposed so-called Free Anglican church, I believe it is suggested that no man can be made a bishop without the assent of some of the bishops.

If it be said that our system of appointing bishops has been abused, and has tended to make the prelates servile dependants on the Monarch, it cannot be denied; neither can we deny that bishoprics have been ill bestowed; but these abuses no longer exist, and before we abandon our present practice, some method must be suggested less objectionable and less liable to abuse.

Few, probably, would wish to see the popular elections of ancient times revived; if they would not be attended by the tumults and corruptions, they would, probably, by the strifes and contentions of those times; there could hardly fail to be canvassing and electioneering; the episcopal office would suffer; the majority would look for favours from him whom they had successfully supported, and the minority would be tempted to regard him with prejudice. It may be doubted whether, if the clergy or

inhabitants of a diocese were allowed to select their own bishop, they would look abroad amongst the whole body of clergy for the best man, and be as little influenced by local prejudices as is the Prime Minister of England. It will be found that most of the learned divines of the English church, have been promoted to bishoprics; but it is very doubtful whether they would have become bishops had popular elections prevailed.

Or, few would consider it wise to give to the bishops themselves, as has been suggested, the nomination to bishoprics, which would be to make them wholly independent of church and commonwealth, and create a spiritual aristocracy, into which none could gain admittance without their permission. Still more objectionable does this proposal appear when it is remembered, that in our church the bishops alone have power to admit men into the sacred ministry. By our present practice, the Nation determines who shall be the persons to have this power of admitting men into the ecclesiastical order; but if the bishops were allowed to fill up vacancies in their body, the people would lose all voice, not only in the selection of bishops, but of all their ecclesiastical officers.

Some of the clergy are anxious that they should be allowed freely to elect the bishops as they did before the Reformation; the desire is so unreasonable, and it is so extremely improbable that it will ever be gratified, that it is not necessary to say much more than this, that had the

clergy continued to elect the bishops, such men as Cranmer, Ridley, Latimer, Hooper, Jewel, would never have been known as bishops, though they might have been known as martyrs, of the English church. The clergy would not have allowed the mitre to be placed on the head of Cranmer or Jewel, Tillotson or Burnet; and it would be almost impossible for any man, known to be favourable to reforming or liberal principles, to reach the episcopal bench, if the clergy either elected or their consent were necessary to the election of our bishops. The clergy would probably choose learned, zealous, and pious men for bishops, but they would be of very much the same school of theology, and as the bishops became of one type, so would the clergy. Not only would that comprehensiveness which now characterizes the National church, and those differences of opinion which give life and vigour to a church, preserving it from stagnation, disappear; but there would be an increasing want of sympathy between clergy and laity.

Some members of the Church of England seem to consider it a hardship that churchmen alone are not allowed to select bishops, and multiply them as they may think desirable. The complaint is unreasonable. For our prelates are not the ministers of a voluntary religious society or sect; they are not like Roman Catholic bishops, or Wesleyan ministers, or bishops of the Scotch Episcopal church; they are National officers, the Sovereign's ministers for ecclesiastical affairs; they have seats in the High Court

of Parliament, placed there to consult with the Lords and Commons of the Realm, for the advancement of God's glory and the good of men; they exercise coercive jurisdiction over men, touching their persons and their property; they enjoy the large revenues, which have been bestowed, to use the words of an old statute, "by the kings and nobles of this Realm, that the said spiritual persons might exercise hospitality, perform divine services, teach and preach God's laws, to the profit of the people of this Realm."[1] It is for the whole Nation, and not for any section of it, to say who shall enjoy these great dignities, privileges, and emoluments, and how many there shall be to exercise such extensive powers. And this the Nation does through the Prime Minister and Parliament of England. So long as the bishops are officers of a National church, enjoy temporal honours and advantages conferred by the Nation, and are maintained out of the property given by the kings and nobles of this Realm, they ought to be appointed by the Nation.

II.—As supreme head of our church, the Sovereign is the source of all ecclesiastical jurisdiction. The power of judicature, of settling all disputes or controversies arising in the National church, belongs to him, and therefore he is called the supreme ordinary of the church.

As the subject of jurisdiction requires to be written on

[1] Act concerning deprivations of the Bishops of Salisbury and Worcester. Burnet's Coll., i, p. 178. Sir M. Foster, p. 13.

with great exactness, I think it necessary to repeat one or two observations already made concerning ecclesiastical supremacy.

There are three ways whereby a man or multitude of men may become subject to another: 1.—By force or conquest. 2.—By divine appointment. 3.—By men's own wills and at their own discretion. Until a man is subject to another by one of these three ways, he has supreme dominion over himself. None will contend that Christians are subject to any person or persons by the first of these three ways,—by force and conquest; but a very large number of learned and good men have for many ages contended that Christians are subject to some particular person or persons by divine appointment. When we ask who is the person, or who are the persons, appointed by God to have dominion over the church, a surprising variety of answers is given. Some, and they are very much more numerous than the rest, tell us that the Bishop of Rome is the divinely appointed ruler, governor, and judge of the whole Christian church, and therefore the settlement of all ecclesiastical controversies belongs to him, and by his sentence all must abide. Others tell us that archbishops and bishops are the divinely appointed judges of church controversies, that the settlement of all ecclesiastical cases belong to them; this view finds great favour amongst the clergy of Episcopalian churches, not in communion with the see of Rome. Others tell us that there is a divine and

authorized model of a Christian church, from which no church may depart; that according to it, a congregation of Christians is a separate and independent church, having entire control over its own concerns, and therefore the settlement of any controversy amongst its members belongs by Apostolic or divine appointment to the communicants of that church. This is the view of the Congregationalists or Independents of this country.

There are other answers given to the question, who are the persons divinely appointed or authorized to have jurisdiction over Christians; for most churches have members too zealous to allow that their form of church government is only fit and convenient; they will insist that it is divine, and cannot without impiety be altered.

I do not think it necessary to examine the arguments adduced in support of the Papal supremacy, and shall postpone my remarks on the claim of bishops to jurisdiction by divine right.

Concerning the Independent or Congregational theory, let it be granted that, as Independents maintain, during the first century each congregation was a church having entire control over its own concerns; the communicants being the rulers and governors, settling all controversies, accountable to, and controlled by, no other church; that in the next century this primitive independency disappeared and that state of things came into existence which has since prevailed. It does not follow that we are to revive the

primitive independency of congregations, because they were independent in the first century. With as much reason might it be said, we must revive the Heptarchy because there were anciently seven independent kingdoms in this country. If a number of independent states think it expedient for their mutual protection and their general welfare to form themselves into one kingdom, the mere fact that at first they were independent would not justify one of them withdrawing from the union. Primitive independency might be fit and convenient for the first century, but it may be very unfit and inconvenient for England in the nineteenth century. We judge Independency and all other forms of church government by their fitness for our time and country; for we deny, as before stated, that there is any divinely appointed form of church polity, from which Christians are never to depart. I conceive that whilst Independency has still some advantages, it is in this matter of jurisdiction open to great objections; for it places the power of judicature not in the wisest and most experienced, not in men trained to act as judges, but in the communicants, persons who may be very exemplary Christians, but quite unfit to decide controversies concerning faith and practice; and that which makes the matter worse is, from their sentence their is no appeal. Thus in a small church, a few busy ill-educated men, having appointed themselves judges, may sit in judgment on their clergyman, condemn and dismiss him; and he is without redress for any wrong

which he may have sustained at their hands. It is considered that freedom and liberty are mainly preserved by separating the judicial power from the legislative and executive power, and placing it in a peculiar body of men; because if the judicial power is joined with the legislative, liberty and property are in the hands of arbitrary judges, whose decisions are regulated only by their own opinions, and not by any fundamental principle of law.[1] Now by the Independent polity the judicial power is in the hands of arbitrary judges, for the communicants have not only judicial, but also legislative and executive power vested in them. And in a society or church where the right of making and enforcing laws are united in one and the same body of men, liberty must be insecure. The Independent system recognizes as a fundamental principle the supremacy of the laity; the Church of England does the same; but whilst the Independent is governed by a small body of men, who may be, and frequently are, very unfit to exercise legislative, executive, or judicial power, the churchman is governed by the ablest men chosen out of the whole Nation, and every Englishman who has a voice in the affairs of the commonwealth, has a voice in the affairs of the church.

We of the Church of England contend that ecclesiastical jurisdiction is not vested by divine appointment in any particular person or persons, as the Pope, or bishops, or

---

[1] Blackstone, ii, p, 492.

communicants; and, therefore, we say that every independent society or church has supreme authority and full dominion over itself, which authority or dominion it may give to such person or persons, as it thinks most fit to exercise it. So that the power, authority, dominion, or jurisdiction, which such person or persons possess, is a human gift, voluntarily bestowed, and may be extended, abridged, or entirely taken away by those who gave it.[1]

At first the Christian church was a society distinct from, and independent of, the state or commonwealth; it lived under a heathen Emperor, who had no authority to interfere with its affairs, except when called upon by a member, either to determine whether the regulations or laws of the society had been observed, or to give effect to any sentence which had been pronounced by its rulers or officers. It had its own judges, courts, rules of proceeding, sentences, modes of punishing its members; for the church, though a society of divine origin, required such, as much as a merely human society. No private member could be allowed to set himself up as a judge over his brethren, to summon them before him, to deprive them of any portion of their privileges, or cast them out of the society. The power of judicature belonged to the society at large; and at first was exercised by the members generally. The judges, says Lord King, before whom offenders were con-

[1] Hooker, ii, p. 398.

vened and censured, were the whole church, clergy and laity; the spiritual court was composed of the whole body of the church, the bishop and people.[1] But in the course of time it ceased to be convenient for all the members of the church to assemble together to settle controversies; wherefore each church, in the exercise of the power which every independent society has over itself, committed the judicial power, which belonged to the whole society, to one person, who might hear and determine complaints with more ease, expedition, and satisfaction, than the people in their collective capacity could.[2] This person was the chief pastor or bishop of each church; and so long as the primitive independency lasted, there was allowed no appeal to any other person or persons.

Not only was each bishop constituted the chief judge in his church in all ecclesiastical or spiritual causes, that is, in all causes where any of the clergy or lay members had said or done anything contrary to the laws of the church, he was also made their judge in merely secular causes. This arose in the following manner: It seems that amongst the Jews it was considered unlawful for any Jew to bring a lawsuit against his countryman before a Gentile magistrate; the Apostle St. Paul held similarly, that Christians should settle their disputes amongst themselves, and he strongly urges the Corinthian Christians not to indulge the

[1] Lord King on the Primitive Church, pp 91, 97, 101, 102.
[2] Blackstone, ii, p. 526.

litigious spirit which characterised the Greek nation, by carrying disputes concerning the things of this life before heathen magistrates, but to choose out some man from amongst themselves, and set him to act as judge.[1] Accordingly, it became a general practice for Christians to choose the bishops, as persons best qualified by their wisdom and authority, to act as judges in all their disputes and end their controversies.[2] So great was the confidence in the integrity and justice of the early bishops, that not only Christians, but others frequently chose them as arbitrators in their differences, and in the fourth century we find Augustine and other bishops complaining that they were so much occupied in hearing causes, that they had scarcely time for other business.[3] They, therefore, sometimes appointed a person, in whose integrity and judgment they could confide, to act as their substitute. This person was commonly a clergyman, but sometimes a layman.[4]

Now concerning this jurisdiction or judicial power exercised by the bishops, it must be clearly understood, that at first, and until the conversion of the Emperors, the bishops had no coercive or compulsive power; they could employ no force, they could touch no man's person or property. It is true that some of the powerful prelates used coercion, but it is clear from the manner in which

[1] Stanley on the Epistles of St. Paul to the Corinthians, pp. 92, 93.
[2] Bingham, book ii, cap. vii, ss. 1, 2, 3.
[3] Bingham, book ii, cap. vii, s. 1. [4] Bingham, book ii, cap. vii, s. 5.

their proceedings are spoken of, that they were regarded as acts of usurpation. The Bishop of Alexandria, Socrates says, took to himself more authority than others, and used coercion; the Bishop of Rome also challenged secular power.[1] The church possessed no coercive or compulsive power over its members, and therefore could not give it to a bishop or any other person.

It is for this reason that, strictly speaking, the bishops until the conversion of the Empire had no jurisdiction at all. Jurisdiction is defined to be that power which has coercion or compulsion; it affects the bodies or property of men, not their spirits or souls. "There is no such thing," says Selden, "as spiritual jurisdiction; all is civil, the church's is the same with the Lord Mayor's."[2] "Jurisdictio est authoritas judicandi sive jus dicendi, &c.," says Bracton. Again,—"Jurisdictio est potestas de publico introducta cum necessitate juris dicendi."[3] So Jewel writes,—"Jurisdiction without some compulsion is no jurisdiction."[4] So Lord Hale says,—"Power in foro conscientiæ is not properly a jurisdiction, because it has no coercion; it is not derived from the crown."[5] Even Jeremy Taylor, in asserting the high authority of bishops, several times plainly and strongly declares that they had no coercive power, which is properly jurisdiction. The ministerial power, he says, was purely

[1] Socrates, Lib. vii, c. 7, 11. [2] Selden's Works, p. 2036.
[3] Coke, part iv.—Procemium. [4] Jewel, iii, p. 395.
[5] Hale on the Right of the Crown. Blackstone, i, pp. 266—268.

spiritual, without domination, without proper jurisdiction, that is, without coaction; authority to persuade and to rebuke, but not to command.[1] "That which the ecclesiastics can do, is a suspension of their own act, not any power over the actions of other men; and therefore is but a use of their own liberty, not an exercise of jurisdiction." The church could only compel those who were willing to be compelled; this, "therefore, is but improperly an act of jurisdiction."[2] So Barrow writes,—"Originally there was not at all among Christians any jurisdiction like that which is exercised in civil governments." Again,—"At first the episcopal power did only consist in paternal admonition, and correction of offenders, exhorting and persuading them to amendment; and in case they contumaciously did persist in disorderly behaviour, bringing them before the congregation, and the cause being there heard and proved, with its consent imposing such penance or correction on them as seemed needful for the public good or their particular benefit."[3] Again,—"Anciently there were no appeals properly so called, or jurisdiction in the church."[4] So Lord King says,—"The church's arms were spiritual, consisting of admonitions, excommunications, suspensions, and such like, by the wielding of which she governed her members."[5] To the same effect writes Bingham,—the

[1] Taylor's Works, xiii, pp. 550, 551.
[2] Taylor, xiii, pp, 550, 551, 561; vii, p. 172. [3] Barrow, vii, p. 367.
[4] Barrow, vii, p. 408. [5] King on the Primitive Church, p. 94.

church's power "originally was a mere spiritual power; her sword only a spiritual sword, as Cyprian terms it, to affect the soul and not the body."[1]

The church could only give to its officers purely spiritual power over its own members, or those who wished to become members; accordingly it gave to the bishops power to refuse to admit persons into its communion, to admonish and warn offenders, to deny them the Eucharist, to exclude them from the congregation, and to cast them out of the church, but not to touch any man's person or property.[2] The bishop and clergy might exhort and rebuke a layman, and if he persisted in transgressing the laws of the church, they might declare him to be no longer a member of the church; but they could not fine, or imprison, or even forcibly eject him from their assemblies. "The clergy," says Selden, "could excommunicate, but if the excommunicated would come among them, who could hinder them?"[3] Whenever the church required to get possession of its property from clergymen who had been censured or deposed, or to remove them from their places, it had recourse to the magistrates of the Empire, of which there are many instances.[4]

But when the Emperors became, through their conversion

---

[1] Bingham, book xvii, cap. ii, ss. 3, 6; book ii, cap. iv, s. 4.

[2] Bingham, book xvi, cap. ii, ss. 1, 2, 3.

[3] Selden's Works, p. 2056.

[4] Bingham, book ii, cap. iv, s. 4; book xvi, cap. ii, s. 3; cap. vi, s. 30

to Christianity, favourable to the church, they, finding the bishops in possession of a nominal authority, invested them with a real jurisdiction,[1] and their sentences were declared by the Imperial laws to be in many cases final.[2] "All jurisdiction is temporal;"[3] that which is properly so called was in the Emperor; he was the fountain or reservoir of it, and he conferred it upon whomsoever he liked. So Selden says,—"When Constantine became Christian, he so fell in love with the clergy, that he let them be judges of all things, . . . all jurisdiction belonged to him, and he scanted them out as much as he pleased, and so things have since continued."[4]

The foregoing statements concerning the origin of ecclesiastical jurisdiction are denied not only by Roman Catholics, but also by some Protestant writers, who contend that jurisdiction belongs by divine right to bishops. They say that the Saviour Himself appointed the Apostles supreme rulers and governors of the church, empowering and commanding them to transmit to others the same supreme power, which accordingly they did by laying their hands on the heads of certain men; that in like manner these men were divinely authorised and commanded to transmit in the same way to others the supreme power which they had received from the Apostles, and that they did so; that this

[1] Sir M. Foster, p. 12.
[2] Bingham, book ii, cap. vii, ss. 3, 4.
[3] Selden's Works, p. 2013. [4] Selden's Works, p. 2029.

has been going on ever since without interruption; and that the men who have received this supreme power over the church are the archbishops and bishops. Accordingly, they maintain that each bishop should be supreme judge over all in his diocese, that from his sentence there can be an appeal only to the archbishop of the province, or a synod of bishops, thence to a patriarch or general council.[1] The Church of England, on the contrary, does not allow that the judicial power—power to sit as judges and determine all controversies in the church,—belongs by divine right, or appointment, to bishops, or to any order of men, but may be, as it has been, conferred on various persons, clergymen or laymen, at the discretion of every separate or National church.

Now it is highly improbable that there is a fixed order of men in the church to whom, by divine appointment, belongs the settlement of controversies, for the following amongst other reasons.

1.—Because there is no mention of this important circumstance in the New Testament, which there should have been, in order that men might be warned to submit to bishops their controversies, and not, as they have done, disregard a divine law.

2.—Because if it were the divine intention that bishops should possess such great powers, we might expect that there would be given in the New Testament, directions as

[1] Bingham, book ii, cap. xvi, s. 16.

to the election or appointment of such important personages, whereas there are none; and in fact the mode of electing or appointing bishops has varied in various ages. Sometimes they have been appointed by the people in a very tumultuous manner, sometimes by the clergy, sometimes by Emperors and Princes, sometimes by bishops, sometimes by Popes, sometimes by cathedrals and monasteries, sometimes by Parliaments, sometimes by Prime Ministers.

3.—Because no special illumination or inspiration is afforded to bishops qualifying them to act as judges in spiritual or ecclesiastical causes, which we should expect, in order that they might be preserved from error, the church from suffering inconvenience or wrong, and their decisions be received with respect. This special inspiration seems necessary, because the theory now under consideration places men's property and actions under the control of bishops; no court of human origin or authority can give redress or protection by presuming to review the proceedings or reverse the decision of men who are authorised by the Supreme Being to decide all ecclesiastical or spiritual causes; all that the courts of the Realm would have to do, would be to give effect to the sentence of the bishops, in case they possessed no coercive power. However grossly unfair might be the sentence of a court of bishops, though all the rest of the Nation saw that these divinely appointed judges had unjustly cast a man out of the English church, or deprived or pronounced that a man ought to be deprived

of his benefice, no human court could interfere, except if called on to give effect to the sentence of the bishops.

4.—Because the divine Head of the church has ordained no order of men to exercise legislative powers. If He has left Christians free to choose out from among themselves those whom they think most fit to make their laws, it is reasonable to suppose that He has left them free to select those whom they think most fit to interpret and enforce those laws.

5.—Because it would be highly inconvenient that only bishops should be authorised by the Head of the Christian church to be judges in controversies. A man who is very fit for the office of a bishop, may be, and clergymen generally are, unfit for that of a judge. Yet, according to the theory which we are considering, when a man is made the bishop of a diocese, he is by heaven's ordinance the only authoritative judge in all questions arising within his diocese touching morals and dogma; and further, according to the practice of the early church, from his sentence, however incompetent or even corrupt the judge may be, there is no appeal, for, as Barrow proves, at first no bishop was accountable to another. But even if there be an appeal from the bishop to an archbishop or other bishops, the church is bound by the sentence of men, not generally trained to the exercise of judicial power, whose feelings are frequently so interested in the case before them as to disqualify them from giving it impartial consideration.

For these, and for other reasons which may suggest themselves to the reader, it is highly improbable that the divine Head of the Christian church has ordained bishops alone to exercise ecclesiastical jurisdiction.

However, let us consider the arguments by which the divine right of bishops to jurisdiction is sustained. They are as follows.

1.—It is said that the divine Head of the church conferred upon the Apostles supreme jurisdiction over the church. That the Apostles were commissioned to preach the Gospel, to admit by baptism people into the church, no Christian will deny; but it is not so clear that they were constituted sole rulers and governors in the church, the only judges in all controversies amongst the members; and they themselves do not seem to have considered that they were invested with such powers. For argument's sake, however, let it be allowed that to the Apostles was granted all jurisdiction in the church.

2.—This supreme power, it is asserted, they transmitted to others, namely, to the bishops whom they ordained. There is not the slightest proof that the Apostles either could transmit such great powers to others, or that they did. It is not certain that they ordained bishops in all churches; there are not a few learned men who maintain, with Selden, that "in the beginning bishops and presbyters were alike."[1] The Apostolic office was an extraordinary

[1] Selden's Works, p. 2014. Jewel, iii, p. 439. Neander, i, p. 264.

one, and there are many reasons for thinking that the Apostolic powers were not to be transmitted, but that they died with the Apostles.

3.—But let it be supposed that the Apostles consecrated bishops, and conveyed to them supreme jurisdiction over the Christian church; it does not follow that they must always have it, and that no one should presume to interfere with it or take it away. The arguments of Barrow against the supremacy of the Pope, hold equally against the claim of bishops to jurisdiction by divine right. If God had positively declared that jurisdiction is granted by Him irrevocably and immutably to bishops, so that in no case might it be removed or altered, then we must admit that in all places and in all ages, to the end of time, the settlement of all controversies in the church belongs to the bishops; but if there is no such declaration, then to assert for bishops such high power is to derogate from God's power and providence.[1] It is in the highest degree improbable that it was ever intended that, however great might be the corruptions of the episcopal order, or however much they might abuse their powers, the church must submit and not presume to abridge or take away their authority. So that, even if bishops inherited from the Apostles the right of jurisdiction, the church, as it is the subject of such jurisdiction, may upon sufficient cause wholly take it away, or as our church has done, exempt certain men from this

[1] Barrow, vii, p. 434.

jurisdiction, confer it upon others, and appoint one over the bishops to receive appeals from their sentences, confirm or reverse them as may be necessary.

4.—The claim of bishops to jurisdiction by divine right was not known or recognised in the first ages, when it should have been best known and most readily allowed. The earliest bishops did not claim it, at least they did not act upon it, for, as before stated, each bishop acted with his clergy and people, hearing and settling with them the controversies amongst the members of that particular church; and no bishop was considered accountable to another, or could be judged, or in any way be interfered with, by another.[1] The system of appeals to archbishops, synods, patriarchs, and general councils was, in the earliest ages of the church, unknown. "Every church governed itself," says Selden, "before the Emperor became Christian, and then he governed all."[2] So Lord King writes, "Every particular church had power to exercise discipline on her own members, without the concurrence of other churches."[3] In fact, the system of church government, approved of by the advocates of the divine right of bishops, was not known or settled before the fourth or fifth century, when it was ordered by one of Justinian's constitutions, that every man should bring his cause first before his own bishop, then

[1] Barrow, vii, pp. 285, 302, 367, 488.

[2] Selden's Works, p. 2035.

[3] King on the Primitive Church, p. 161.

before the metropolitan, after that before a provincial synod, and last of all before the patriarch.[1] This system might have been introduced upon good and sufficient reasons; it was superior to that of the primitive age; it might have been the best that could be devised in and for those times, well suited to the Empire, and productive of good order, peace, and unity in the church; but it is of human not divine origin. Introduced by the bishops of the fourth century, and therefore, as might be expected, favourable to episcopal power,—for hardly a presbyter's, much less a layman's voice, was then to be heard in church assemblies,—legalized, perhaps wisely, by the Emperors, it is in several respects not suited to other times, and cannot be held up as a system universally and everlastingly to be adhered to by the Christian church.

For these reasons we must reject the claim that jurisdiction belongs by divine right to bishops.

I may here observe that, although jurisdiction was given by the Christian Emperors to the bishops, it must not be supposed that they thereby meant that jurisdiction belonged to bishops by divine right, and that they themselves could not or should not interfere in spiritual causes.[2] The divine right of bishops was no more recognised in the Empire than in England; the Emperors frequently received appeals, and confirmed, restored, and deposed bishops; "this

[1] Bingham, book ii, cap. xvii, ss. 7, 9, 14.
[2] Barrow, vii, p. 369.

power," says Barrow, "was indeed necessarily annexed to the Imperial dignity."[1]

There is one instance of an ancient church in which jurisdiction was given not to the bishop, but to a presbyter or priest, deserving of notice.

We are expressly informed by Bede, and he is confirmed by the Saxon chronicle and other authorities, that the Abbot of Iona, though only a presbyter or priest, was supreme over the whole province of Iona, and even over the bishops; the Presbyter-Abbot of Iona was the supreme ruler, the chief officer of the Culdees; he exercised ecclesiastical jurisdiction and authority over the clergy; and indeed is sometimes called the primate, sometimes the Bishop of the Scots, and sometimes the Archbishop of Scotland, though he was only a presbyter.[2]

From what has been said, it will be perceived that the coercive power, which is properly jurisdiction, exercised by the ancient bishops, was originally conferred by the Emperors; the jurisdiction which was purely spiritual, without domination or coaction, power to persuade, warn, rebuke, but not to touch men's property, or control their actions, was conferred by the church, and by the church, therefore, may be either enlarged, abridged, or entirely taken away.

---

[1] Barrow, vii, pp. 381, 389, 400, 408.

[2] Bede, Lib. iii, cap. 4. Saxon Chronicle, A.D 560. Jamieson's Account of the Culdees, pp. 49—51, 235.

Before considering the doctrine of the reformed Church of England, concerning ecclesiastical jurisdiction, it will be useful to glance at the practice of this Church and Realm in Anglo-Saxon times. It is pretty clear that even then the divine right of bishops or clergy to jurisdiction was not allowed. "Episcopal jurisdiction in England," says Sir Michael Foster, "extended originally to such persons, places, and things, as our Kings and their great councils from time to time subjected to it, and to no other. The legislature frequently exempted places and persons from the jurisdiction of the bishops, which exemptions still continue; and further, they granted that jurisdiction to other clergymen under the degree of bishops, as archdeacons, deans, &c., who still enjoy it; from all which it appears clear, that before the Reformation, ecclesiastical jurisdiction was esteemed a branch of power which the legislature might confer, abridge, or wholly take away at pleasure."[1] For instance, as Lord Coke says, King Kenulph and Parliament freed the Abbot of Abingdon from all episcopal jurisdiction, that the inhabiters of the monastery might not be oppressed by the bishops;[2] from ancient times the King has granted episcopal jurisdiction to the Archdeacon of Richmond;[3] and we are informed by the chronicler of the Abbey of Bury, that the monks of St.

---

[1] Stat. of Provisors, 25 Edward III. Act for depriving Bishops of Salisbury and Worcester. Rapin, i, p. 93.

[2] Coke's Reports, iii, p. 29. [3] Coke's Reports, iii, p. 37.

Edmund claimed exemption from episcopal jurisdiction by royal authority, and exercised jurisdiction from very early times within the bannaleuca.[1] Moreover, in the time of our Anglo-Saxon ancestors, it is clear that judicial power in ecclesiastical affairs was not considered to belong to the bishops or clergy, for laymen sat as judges, and exercised ecclesiastical jurisdiction. The bishop and the earl or sheriff sat together, and heard and determined all causes, ecclesiastical as well as civil.[2]

But this moderate and rational plan did not suit the ambitious views of the Roman church, and the clergy succeeded in obtaining exclusive possession of ecclesiastical jurisdiction, which they retained until the Reformation, when our ancestors, with hardly any interference with the machinery of the church, gave sacerdotalism its most fatal blow, by vesting ecclesiastical jurisdiction in a layman, the Sovereign of the Realm. The fundamental error, as Sir Michael Foster observes, which gave countenance to all the exorbitant pretensions of the priesthood, and the cursed root of bitterness from whence the Papal supremacy sprang, is the divine right to jurisdiction claimed by the clergy. And so our ancestors thought; "therefore they did not content themselves with barely abolishing the usurped power of the Bishop of Rome, but went to the root of the evil, and declared that all jurisdiction, as well

[1] Chron. Joc. de Brakelonda, p. 107. Coke's Reports, iii, p. 38.

[2] Blackstone, iii, p. 61.

ecclesiastical as civil, is vested in, and exercised by delegation from, the crown."[1]

The law or doctrine, therefore, of the reformed Church of England concerning ecclesiastical jurisdiction is, that all authority of jurisdiction, spiritual and temporal, is derived from the King, the supreme head of the National church.[2] "Archbishops, bishops, archdeacons, and other ecclesiastical persons, have no manner of jurisdiction ecclesiastical but by, under, and from the crown."[3] Thus the King has entire power and jurisdiction to render justice and right to every one in the Realm, clergy and laity, in causes ecclesiastical as well as temporal.[4] The King has supreme ecclesiastical jurisdiction, says Lord Coke; by the mouth of his ecclesiastical judges he determines spiritual causes, as heresies, admissions to livings, celebration of divine service, appeals, &c., by the ecclesiastical laws of the Realm.[5] So Lord Hale affirms, "Jurisdiction ecclesiastical *in foro exteriori* is derived from the crown of England."[6] Again he says, speaking of the ecclesiastical courts, "That the jurisdiction exercised in those courts is derived from the crown of England, and that the last devolution is to the King by way of appeal."[7] Again,—"All subordinate

[1] Sir M. Foster, pp. 17—19. [2] 1 Edward VI, c. ii, s. 3.
[3] 25 Hen. VIII, c. 19. 37 Hen. VIII, c. 17, ss. 2, 4. 1 Eliz., c. 1, ss. 1, 17. Article xxxvii. Canon xxxvi. Stephens's Ecc. Laws, p. 144.
[4] Coke's Reports, iii, p. 27.
[5] Coke's Reports, iii, pp. 28, 30, 38, 58,
[6] Hale's Hist. Com. Law, p. 27. [7] Hale's Hist. Com. Law, p. 45.

magistracy is derived from the supreme, either immediately or mediately; either by express grant from him, or by something that implies or supposes it in its original, viz., custom or prescription."[1] Again,—"All power of external jurisdiction is originally in the King, either formally to exercise, or at least virtually to derive." So Lord Holt says,—"The King hath two jurisdictions, one temporal, another ecclesiastical; and they have different laws and different processes."[2] So Lord Westbury states,—"Supreme jurisdiction in ecclesiastical matters, in all cases ecclesiastical or spiritual, is the essence of the supremacy of the crown, . . . all jurisdiction proceeds from the crown, and should be exercised by virtue of appointment made by the crown; the primary jurisdiction in all matters ecclesiastical and spiritual is concentrated in the crown. . . . Jurisdiction, which is the right of jus dicens, is vested in the crown, and can only be exercised by authority of the crown. This was the province of the Kings of England, even before the Reformation. At the time of the Reformation, the supremacy of the crown was finally asserted and established in this,—that the ultimate decision of all ecclesiastical cases should centre in the crown, and in persons appointed for that purpose by the crown."

That the jurisdiction exercised by our bishops is from the Sovereign, and not by any divine right, is repeatedly

[1] Hale's Analysis of the Law, p. 21.

[2] Holt's Reports, p. 435.

affirmed also by our divines. So Jewel, the able defender of our church against Rome, writes, "I grant there be many special privileges granted, upon great and just considerations, of the mere favour of the Prince, that a priest being found negligent, or otherwise offending in his ministry, should be convented and punished, not by the temporal or civil magistrate, but by the discretion of the bishop; yet must you remember, M. Harding, that all these and other privileges passed unto the clergy from the Prince and not from God, and proceeded only of special favour and not of right; for from the beginning, you know, it was not so." Wherefore, Jewel concludes, a Prince or magistrate, though a layman, may lawfully call a priest or bishop before him for an ecclesiastical cause.[1] "We give," says Whitgift, "to the civil magistrate authority in ecclesiastical causes; and we acknowledge all jurisdiction that any court in England hath or doth exercise, be it civil or ecclesiastical, to be executed in her Majesty's name and right, and to come from her as supreme governor."[2] Again, he says,—The Prince executeth his laws himself; and he also executeth them by others, as bishops, for the authority they have in ecclesiastical causes is from the Prince.[3] Again,—Our archbishops are subject to the Prince, from whom they have their authority and jurisdiction over other

[1] Jewel, iv, pp. 959—969.
[2] Whitgift, iii, pp. 267, 449.
[3] Whitgift, iii, pp. 438, 439.

bishops;[1] their courts are established by the authority of the Prince and the whole Realm.[2]

That jurisdiction comes not from the Apostles, but from the Prince, is the opinion of our other writers, as Hooker, Jeremy Taylor, and Barrow, as may be seen from the passages referred to in the notes.[3]

At the time of the Reformation it was deemed so important that the clergy should understand the jurisdiction exercised in ecclesiastical courts to be by no divine right, that by 1 Edward VI, c. 2, it was enacted,—"Whereas the bishops did exercise their authority, and carry on processes in their own names, as they were wont to do in the time of popery; and since all jurisdiction, both spiritual and temporal, was derived from the King; that therefore their courts and all processes should be henceforth carried on in the King's name," collations, presentations, and letters of orders being excepted.[4] Although this statute, repealed of course by Mary, was not revived by Elizabeth, yet the bishops did exercise their external jurisdiction in the Sovereign's name, until the time of Laud, who could not suffer a proceeding so offensive to sacerdotalism to continue.[5] He succeeded in changing the practice, but not the law of our church; for all ecclesiastical jurisdiction exercised by

[1] Whitgift, ii, p. 100. [2] Whitgift, iii, p. 279.

[3] Whitgift, i, p. 153; iii, pp. 267, 424, 449. Hooker, i, preface, p. 143; ii, pp. 84, 85, 398, 442. Barrow, vii, pp. 156, 367. Taylor, xiii, pp. 488, 489, 549—551, 563.

[4] Burnet, ii, p. 69. [5] Sparrow's Coll., p. 132.

our archbishops, bishops, &c., is from the Sovereign. "Bishops of England," says Lord Coke, "are the officers and ministers to the King's courts."[1] Again, he says,—"Albeit the proceedings and process in the ecclesiastical courts are in the name of the bishops, &c., it followeth not, therefore, that neither the court is not the King's, or the law whereby they proceed is not the king's law."[2] Again,—The King's laws of this Realm bind the jurisdiction of the ecclesiastical courts; archbishops, bishops, and their officers, are the King's judges, having spiritual jurisdiction.[3] Lord Hale says,—"It is true, both anciently and at this day, the process of ecclesiastical courts runs in the name, and issues under the seal, of the bishop; and that practice stands so at this day by virtue of several Acts of Parliament, too long here to recount. But that is no impediment of their deriving their jurisdictions from the crown."[4]

I shall now mention some proceedings at and after the Reformation, in illustration of the doctrine of our church, that supreme ecclesiastical jurisdiction belongs to the Sovereign.

Cromwell was empowered to exercise by himself, or his commissaries, all manner of ecclesiastical jurisdiction and authority which belonged to the King as supreme head of the church, throughout the whole Realm; to inquire into

[1] Coke's Reports, iii, p. 39. [2] Coke's Reports, iii, p. 76.
[3] Coke's Institutes, part iv, cap. lxxiv.
[4] Hale's Hist. of Com. Law, p. 27.

the lives, manners, and qualities of the clergy of all ranks; and determine all manner of causes belonging to the ecclesiastical courts.[1] The bishops took out from Henry VIII commissions for the exercise of jurisdiction;[2] Bonner's is extant; it declares that since all jurisdictions, ecclesiastical and civil, flowed from the King as supreme head, the King empowers him to execute all parts of the episcopal authority, ordain, present, institute, &c.[3] Moreover, the legislature empowered the King, by 31 Henry VIII, to grant ecclesiastical jurisdiction to laymen or clergymen over certain places, which from ancient times had been exempt from episcopal jurisdiction; and in consequence of this statute, says Sir Michael Foster, laymen in many places became entitled to episcopal jurisdiction by grants from the crown.[4] On the accession of Edward VI, the bishops took out fresh commissions, similar to those in the preceding reign; Cranmer's and Bonner's are extant; they were to hold their bishoprics during the King's pleasure, and exercise jurisdiction as his delegates, in his name. This, says Burnet, was only done by reason of the present juncture, because the bishops were generally addicted to the former superstition, and it was considered necessary to keep them under so arbitrary a power; Ridley

[1] Burnet, iii, pp. 208, 209; Coll. of Records, ii, part ii, p. 416. Sir M. Foster, p. 22.

[2] 1 Edward VI, c. ii. Burnet, ii, p. 8.

[3] Burnet, i, pp. 285, 412, 413; Coll. i, p. 269; ii, pp. 9, 349.

[4] Burnet, Coll. ii, p. 369.

and the new bishops being thoroughly Protestant, held their bishoprics for life.[1] Also, inhibitions were sent to the archbishops and bishops, suspending for a time their exercise of jurisdiction, "for that the King himself intended to visit;"[2] the visitors appointed were mostly laymen. When the supremacy of the Pope was restored by Mary, the clergy petitioned that exempt and peculiar places might be no longer under the jurisdiction of laymen, but the archbishop, bishop, or archdeacon;[3] and an Act was passed affirming the hierarchical doctrine,—that a layman cannot execute ecclesiastical laws, and therefore cannot enjoy ecclesiastical supremacy.[4] This statute was repealed by Elizabeth, and jurisdiction restored to the Sovereign. Commissions to laymen to visit dioceses were frequent, says Sir M. Foster, in the reigns of Elizabeth, James, and Charles I.; Elizabeth's commission to the visitors for the province of York is extant. The commissioners were the Earls of Shrewsbury and Derby, and some others, with a divine; they were to visit all churches in the province, inquire into the lives, qualifications, and manners of all clergymen, punish by suspension or deprivation the unworthy, grant licenses for preaching to such as they deemed qualified, &c.[5] So the Earl of Pembroke, Henry Parry,

---

[1] Burnet, ii, pp. 8, 9; Coll. of Records, ii, p. 125.
[2] Burnet, ii, p. 41; Coll. of Records, ii, p. 144.
[3] Burnet, Coll. ii, p. 369. [4] 1 & 2 Philip and Mary.
[5] Strype's Annals, i, p. 165. Burnet, ii, pp. 624, 625; Coll., ii, p. 481.

William Lovelace, and Jewel, not yet a bishop, were commissioned by Elizabeth to visit several dioceses; and Jewel's first visitation was by authority of the metropolitan.[1]

It is, therefore, clear from the express declarations of the Parliament of England, from the Articles of the Church, from the resolutions of our judges, from the statements of the sages of the law and of our early divines, from the transactions at and after the Reformation, and from the practice of this Church and Realm, that the doctrine of the National church concerning ecclesiastical jurisdiction is, that supreme ecclesiastical jurisdiction is vested in the Sovereign.

The preceding observations concerning jurisdiction may be summed up as follows: 1.—The church, as it is the subject, so is it the origin of the jurisdiction exercised in it; which it is free to confer upon whomsoever it thinks most likely to exercise it to the general benefit. 2.—At first jurisdiction, the censuring and casting out of offenders, &c., was exercised by all members of each church. 3.—It was purely spiritual, without any coercive or compulsive power. 4.—In process of time it fell exclusively into the hands of the bishops. 5.—The Christian Emperors confirmed the bishops in the possession of this nominal jurisdiction, and gave them real jurisdiction; in many cases their sentences were final; in important cases appeals went to the Emperor.

[1] Strype's Annals, i, pp. 165—167. Strype's Parker, book ii, chap. iii.

6.—In the reformed Church of England all ecclesiastical jurisdiction is vested in the crown; and the jurisdiction exercised by our archbishops, bishops, &c., is from and under the crown.

III.—The Sovereign, as the supreme judge of the church, is the last resort in all ecclesiastical causes. Inasmuch as he is the fountain of justice, all ecclesiastical persons acting by commission from, and in due subordination to him, it follows as a natural consequence that there should be an appeal to him from the sentences of his officers.[1]

Before the Reformation appeals were made to the Pope; these were always regarded by the Nation with an evil eye, and one of the earliest steps towards abolishing the Papal supremacy, was the passing of the first Act against appeals (24 Henry VIII); this transitionary Act gave the archbishop of the province the final determination of all ecclesiastical causes.[2] But in the following year the clergy submitted to the King, and it was enacted that persons aggrieved in the archbishop's courts should appeal to the King; so that henceforward there should be an appeal from the archdeacon to the bishop, from the bishop to the archbishop, from the archbishop to the Sovereign.[3] This statute, giving to the Sovereign the final determination of ecclesiastical causes, although it is regarded with natural aversion by sacerdotalists, was but declaratory of the ancient

[1] Blackstone, i, pp. 250, 280.
[2] Burnet, i, pp. 199, 200. [3] Burnet, i, p. 233.

law of the Realm.[1] By the constitutions of Clarendon, a spirited attempt was made to restore to the Sovereign his ancient jurisdiction; appeals were to lie from the archbishop to the King, and ordinarily proceed no further.[2] And long before, appeals had been made to Princes. It is well known, says Jewel, that appeals even in ecclesiastical causes were lawfully made unto the Emperors and civil Princes, who either heard them themselves or commissioned others to hear them; they also deposed and restored bishops.[3] So Whitgift says,—"The continual practice of Christian churches in the time of Christian magistrates, before the usurpation of the Bishop of Rome, hath been to give to Christian Princes supreme authority in making ecclesiastical orders and laws; yea, and what is more, in deciding of matters of religion, even in the chief and principal points.[4]

The proofs of the supreme power of the Emperors in religious matters, appear so incontestable in the Donatist controversy, that it is amazing it should have been questioned.[5] As soon as the clergy inherited property, they were obliged to seek the interference of the Emperor, whom they regarded as their highest judge; and even the Roman bishop regarded it as a distinction to be judged only by the

[1] Blackstone, iii, p. 67. Stephens's Ecc. Laws, p. 23.

[2] Hale's Hist. Com. Law, p. 166, note. Blackstone, iii, p. 66. Mosheim, iii, p. 57.

[3] Jewel, iii, pp. 396, 397, 414—416.

[4] Whitgift, iii, p. 306. [5] Barrow, vii, p. 410. Mosheim, i, p. 406.

Emperor, who deposed and appointed bishops without further ceremony.[1]

Our Sovereign does not act as judge upon the first instance, for if he did the party could not afterwards appeal, and thereby there would be no opportunity of obtaining redress for any wrong.[2] Nor do we allow the Sovereign to sit in the seat of judgment, to judge in person.[3] It is not convenient, says Fortescue, writing in the time of Henry VI, for the Prince to pry into nice points of law, such matters may be left to the judges, for the Prince will pronounce better judgment in his courts by others, than by himself, it being not customary for the Kings of England to sit in court, or pronounce judgment themselves, and yet they are called the King's judgments, though pronounced and given by others.[4] Accordingly, from ancient times "the King hath committed and distributed all his whole power of judicature to several courts of justice;" he cannot himself judge, having wholly left matters of judicature according to his laws to his judges, by whom he must judge.[5] When, therefore, an appeal is made to the Sovereign from the sentence of any of his ecclesiastical judges, he must employ proper persons appointed by law to exercise his judicial power. The supreme court of

---

[1] Gieseler, i, pp. 422, 423. [2] Hale's Analysis of the Law, p. 13.
[3] Hale's Analysis of the Law, p. 15.
[4] Fortescue de laudibus legum Angliæ, p. 22.
[5] Coke's Institutes, part iv, cap. vii; cap. lxxiv.

appeal is wisely composed of laymen and ecclesiastics; the laymen are some of the great judges of the Realm, men unbiassed by theological prejudices, familiar with the forms of legal procedure and the interpretation of documents; the ecclesiastics are the principal prelates of our church; the proceedings of this great court are conducted with the strictest attention to the rules of justice, and with rigid impartiality. By the succession of appeals provided in the National church, the clergy and laity enjoy the most ample security for the preservation of their rights and liberties.

IV.—As supreme ruler of the church, the Sovereign "convenes, prorogues, restrains, regulates, and dissolves all ecclesiastical synods or convocations." It has been already stated that before the Reformation the clergy assembled at their own pleasure, and had assumed a legislative power in church matters: of this power they were deprived by Henry VIII, and their future conventions were laid under very severe restraints. As, however, there is no longer any danger of the clergy assuming legislative powers, they are now allowed to meet as freely for deliberation as the members of other professions.

Such are the powers given by the Nation to the Sovereign to be exercised by him according to the laws, for the good of the people of this Realm; and most materially has the royal supremacy contributed, and still is contributing, to the prosperity of the National church. It is our chief security against sacerdotal tyranny and popular intolerance;

it protects the laity from the encroachments of ecclesiastics, and the clergy from the oppression and caprice of their congregations; it preserves the comprehensiveness of the church, and promotes the catholic spirit for which the Church of England is so honourably distinguished. It is an emphatic declaration of the supremacy of the laity in church affairs; every man, when he hears that the Sovereign is the supreme head of the Church of England, must at once conclude that the laity, not the clergy, are the masters in our church. It is the most powerful check that perhaps could be devised to the hierarchical tendencies of episcopal communities. Such a check is necessary, for there seems a tendency in episcopal churches for ecclesiastical power to gravitate into the hands of the bishops, of which we have proofs in the history of the early church, as well as in that of some existing non-national episcopal churches.

The royal supremacy is the supremacy of the English Nation in its own ecclesiastical affairs; it declares negatively that no extra-national power, no foreign bishop or potentate, no council or assembly of foreign bishops or clergy, have any authority or power in the Church of England; it affirms positively that the English Nation has such supreme authority and power. If all the bishops and clergy throughout the world were to meet at Rome, Constantinople, or Canterbury, they could impose no laws or canons upon us; they could call no member of our church to account for anything said or done by him; the Parliament of England

alone can do the former, the Sovereign of England the latter.

Through the royal supremacy the Nation controls the affairs of the church. "Whatever the Sovereign does, it is the Nation," says Hooker.[1] The Sovereign acts on the advice of his ministers, who are responsible to the Nation for such advice; the Nation appoints the bishops; the Nation confers such power, authority, and privileges on them as it thinks fit; the Nation determines all ecclesiastical causes, by appointing certain men to act in its behalf; the Nation convenes and dissolves assemblies of the clergy.

Therefore, seeing that the laity possess the legislative power, that they have the control of all church property, that they appoint to most of the benefices, that the supreme head of the church is of the laity, that they are employed in the exercise of the royal supremacy, virtually appointing the bishops, sitting as judges in the supreme court where ecclesiastical causes are settled, it may be safely affirmed that in no church do the laity enjoy greater power, influence, or authority, than in the Church of England; they are with us supreme; they are emphatically,—the church. Yet, as we shall see, the clergy occupy a highly honourable position in our church; we have happily reconciled the supremacy of the laity with the honour and authority which we conceive should be enjoyed by the clergy.

---

[1] Hooker, ii, p. 304.

CHAPTER V.

CLERGY and laity—The clergy obey Sovereign and Parliament—Are officers of the Nation—Supported by endowments—Patronage—Clergy not removable by their congregations.

THERE are certain public religious duties which must, as almost all Christians allow, be observed in the church till the world's end, as preaching, ministering of the sacraments, prayer, and praise.[1] But it is not possible for all that are in the church, nor convenient that every man without distinction, should take upon him to perform these public duties.[2] Hence it is necessary that there should be an order of men to execute these duties, according to the directions given by the community; this order of men we commonly call the clergy.[3] From ancient times there have been clergymen or ministers in the church,[4] whose functions have been held in such reverend estimation, that no man might presume to execute them, except he were first called, tried, examined, approved, and admitted thereunto by

[1] Hooker, i, pp. 344, 350, 351. [2] Hooker, ii, p. 84.
[3] Hooker, i, p. 350.
[4] Clemens Romanus mentions the distinction of clergy and laity. King, p. 7.

lawful authority.[1] We, therefore, hold that,—"It is not lawful for any man to take upon him the office of publick preaching, or ministering the sacraments in the congregation, before he be lawfully called, and sent to execute the same. And those we ought to judge lawfully called and sent, which be chosen and called to this work by men who have publick authority given unto them in the congregation, to call and send ministers into the Lord's vineyard."[2] Such is the cautious, moderate, and reasonable language of the Church of England, concerning the Christian ministry.

Ever since the distinction of clergy and laity, only the former have been allowed to call and send ministers, for as Hooker says, it has not been heard of from the beginning that ever laymen were allowed to ordain ministers.[3] They whom the Christian church has ordinarily used as its agents in ordaining, are a superior order of clergymen, the bishops; accordingly, following this ancient and general custom, the Church of England gives authority to ordain ministers only to bishops.[4] We do not condemn other churches which have thought proper to authorise presbyters to ordain; we consider that they have departed from the ancient ordinary way; but every church is free to adopt such rules as it thinks most convenient.

Bishops alone having with us authority given unto them

---

[1] Preface to the Ordinal of the Church of England.

[2] Article xxiii. Whitgift, i, pp. 544, 545.

[3] Hooker, ii, p. 307.

[4] Hooker, ii, p. 308.

to ordain, no man is accounted a lawful minister in our church, or suffered to execute sacred functions, except he has been admitted to the sacred ministry by lawful authority, that is, by a bishop.[1] Concerning bishops more will be said hereafter.

Our clergy are chosen and ordained by the Nation, for as Whitgift says, as those laws which are made by Parliament have the consent of the whole Realm, so the English Nation even chooses and ordains ministers, for the Ordinal, the service appointed for the ordination of ministers, is allowed and granted by Parliament.[2] And in the Ordinal the National character of the clergy is clearly set forth. They are called to the ministry of the church "according to the order of this Realm;" they are to minister doctrine, sacraments, and discipline, "as this Church and Realm hath received the same," according to the authority to them "committed by the Ordinance of this Realm."[3]

There are, therefore, two sorts of persons in the church, clergy and laity; but that pernicious doctrine which early infected the Christian church, that civil affairs belong to the laity, ecclesiastical or spiritual affairs to the clergy, is not recognised by our National church. Christianity knows no distinction between spiritual and secular things; but Christians are prone to "set over against each other, a spiritual and a secular province of life and action," whereas

[1] Preface to the Ordinal.

[2] Whitgift, i, p. 372. [3] Ordination Services.

the entire earthly life has been raised to the dignity of a spiritual life.[1] Although, therefore, our church is divided into clergy and laity, we do not draw that sharp distinction between them that some do, and say that the clergy shall perform no civil, and the laity no ecclesiastical functions. For there is no divine immutable law or principle of Christianity which forbids a layman expounding the Scriptures, or a clergyman being a ruler or member of Parliament. With us the laity take an active part in ecclesiastical, and the clergy in civil affairs. The laity, as we have seen, make ecclesiastical laws, appoint ecclesiastical officers, overlook the clergy, exercise ecclesiastical jurisdiction, sit as judges in causes purely spiritual; in short, do everything except minister in the public congregation, which order and convenience require they should not be allowed to do.[2] So on the other hand our clergy are not a sacerdotal caste, forbidden all contact with the world and the things of the world;[3] they are Privy Councillors, members of the House of Lords, magistrates, heads of colleges and schools, professors of science, &c.; and in all these capacities and places they may serve to the glory of God, and the good of man, as well as when preaching or administering the

[1] Neander, i, p. 271.

[2] Selden pertinently observes, that Christ said to all Christians,—Go and teach, before there was any distinction of clergy and laity; none but Apostles were present at the Last Supper, but it does not follow that none but ministers are to receive the Eucharist.—Selden's Works, iii, p. 1047.

[3] Neander, i, pp. 270, 271.

sacraments and other rites and ceremonies of the church. Musculus finely says,—Christian people are in every respect holy, and consecrated unto the name and glory of Christ, not in temples only, and ecclesiastical ceremonies, but in all their life, in every place, at all times, in all things, actions, and studies.[1]

In order that the Nation may enjoy the fullest advantage of this order of men,—the clergy,—from Anglo-Saxon times, the whole country has been divided into small districts, known as parishes, over each of which is placed a clergyman, "an able and religious man," whose duty is to perform divine services "to the profit of the people of this Realm." By the parochial system an equal distribution of the National clergy is secured throughout the country; in places where, by reason of their fewness or poverty, the people cannot or will not maintain a minister of religion, an educated man is provided by the Nation, to dwell amongst them and promote their moral and spiritual welfare.

Parish churches are, as Lord Holt observes, for the ease and benefit of people; they are not restraints upon men's religious liberty. No man is compelled to attend the parish church, or even to aid in repairing it; but all know that in a certain building, at an easy distance from them, the public service of God is performed as ordered by the Nation.

[1] Whitgift, i, p. 388.

In all spiritual matters which may be regulated by human authority, the clergy obey the orders given to them by the English Nation, acting either directly through Parliament, or through the Sovereign. The clergy of the Church of England, says Blackstone, in matters of faith and morality, acknowledge no guide but the Scriptures; in matters of external polity and of private right, they derive all their title from the civil magistrate; they look up to the King as their head, to the Parliament as their lawgiver; they are members of a church established by law.[1]

Some seem to consider that because the clergy must obey the Sovereign and Parliament, they are in a kind of bondage. The Church of England is a free church, and every member of it, whether clergyman or layman, is a free man, for to use the remarkable words of an ancient statute, we are not subject to any man's laws, but only to such as have been devised, made, and ordained within this Realm, or to such other as the people of this Realm have taken at their free liberty, by their own consent to be used among them, and have bound themselves, by long use and custom, to the observance of the same.[2] As the clergy are subject only to such laws as have been made by general consent, by authority of Parliament whereunto every man is party, or to such other as the people of England have from ancient times freely received and used; they are free men and not

[1] Blackstone, iv, p. 103.
[2] Stat. 25 Hen. VIII, c. 21

in bondage.[1] Moreover, a man who freely obeys another in all things wherein he can obey him with a safe conscience, is not enslaved by that other. The English clergy are the servants of the Nation in things pertaining to religion; they are maintained by the ecclesiastical property of the Nation; they enjoy certain dignities and honours conferred by the Nation; in return for these privileges, they voluntarily obey, in things ecclesiastical, the English Nation. They are no more in a state of bondage than are the priests of the Roman church or Wesleyan ministers; Roman Catholic priests must obey the Bishop of Rome, Wesleyan ministers must bow to the will of the Wesleyan Conference. A minister in the National church is no more compelled to do anything contrary to his conscience, than is the minister of any other church. Should he be commanded by the Nation to do anything which he believes the law of God forbids him to do, he may, as many clergymen have done, resign the emoluments and temporal advantages which the Nation has conferred upon him. He need not cease to act as a minister of the Gospel; but may continue to exercise ministerial functions according to the dictates of his conscience.

Some persons, thinking to derogate from the authority of the clergy as ministers of Christ, and lessen them in the esteem of the Nation, have contemptuously called them government officers, state servants, &c. Without doubt they are the officers, servants, and ministers of the English

[1] Coke's Inst., s. 135, 95 *b*.

Nation in ecclesiastical matters, and must, in the discharge of their spiritual functions, obey the directions of the Nation as its other servants do; but they are none the less ministers of Him who is the invisible Head of the Christian church. A clergyman of the National church is a minister of the Gospel, having been ordained to the sacred ministry by those who have authority given to them by the church to ordain ministers; he is also a minister of the English Nation, because in all those matters concerning spiritual things which may be regulated by human authority, he obeys the orders, directions, or laws, given or made by the English Nation. The men employed by missionary societies in evangelizing heathen lands are subject to the laws of the society which employs and supports them, but they do not, therefore, cease to be ministers of Christ. The only difference in this respect between the clergy of the National church and those of the Roman Catholic church or Wesleyan Methodists is this,—that the former obey the instructions of the English Parliament; the latter those of the Bishop of Rome or the Wesleyan Conference. The ministers of all churches receive laws from men, even from those whom they recognise as having had power given to them to make their church laws, but they are on that account none the less the ministers of Christ. Those who reproach the clergy with being ministers of Parliament, government officers, &c., seem to think that there is some degradation in a minister of religion receiving and obeying

the directions of the Sovereign and Parliament of England in things spiritual. Why is a clergyman who obeys some lawful order given to him by the Queen of England concerning the service of God, to be regarded as one who is doing something unworthy of a Christian minister, whilst another who obeys an order from the Bishop of Rome, or an assembly of ecclesiastics, or the communicants of a congregation, is said to have a proper sense of his priestly dignity and ministerial authority? The Sovereign and Parliament of England are as likely to consult the welfare of the people of England, and to give to the clergy laws suitable to our country and time, as a foreign prelate, or a body of ecclesiastics, or a synod of clergy and laity, or a small body of men worshipping in some particular building.

In order to secure to the clergy the authority and independence which those who are the ministers of the Christian church should possess, they are—first, supported by endowments; and secondly, they cannot be removed by their congregations or parishioners.

1.—Concerning the expediency of endowments I shall not make any lengthened observations, for they are common to almost all National churches, and the subject has been very fully discussed by those who have written in defence of National or Established churches.

If the Nation appoints, as it does, an order of men to discharge honourable and sacred functions for the general benefit, it is but reasonable that the Nation should provide

for them a sufficient and honourable maintenance, and not leave them to the precarious support of their congregations. A National church may exist without endowments; but the clergy would possess little authority or influence if they depended on the voluntary contributions of their congregations. Few men would be found willing to preach against the vices of those upon whom they depended for their support. In large towns the clergy might retain their independence on such a system; but in small rural parishes they would enjoy neither comfort nor independence. The ministers of churches which discourage or disallow endowments are very insufficiently paid, at least in this country; with many of them it is a hard struggle to maintain some degree of outward respectability. If there were no endowments, people in the higher and middle ranks of society would be unwilling to educate their sons for the ministry; and the country would no longer enjoy the advantage of a body of clergy drawn from all ranks of society, the highest as well as almost the lowest, many of them ripe scholars in various branches of learning, and most of them well educated. It is a remarkable and honourable feature in the Church of England, that not only in our large towns, but oftentimes in obscure country villages, sometimes with small endowments, learned and wealthy clergymen are to be found spending their lives and fortunes for the benefit of their fellow men.

The absence of endowments would be equally fatal to the

learning of the clergy, for however willing people may be to support liberally able and zealous preachers, learned clergymen wanting in oratorical powers would receive very insufficient support or encouragement.

It is chiefly through the endowments of the church, which are under the control of Parliament, that the Nation exercises influence over the clergy, checks secessions and anti-national movements; the Nation would have but a slight hold over an unendowed clergy.

It will be necessary to make a few remarks on the appointment of clergymen to parishes, for strong objections are entertained by some against our system. They consider that each parish or congregation should choose its own pastor, whereas in our church this is very rarely the case.

In ancient times, when churches were first built and parishes assigned to them, the lords of the land who built and endowed them, required that they should have the privilege of choosing the clergy who were to enjoy their endowments; and it was by common consent agreed that to them and their heirs should be assigned the right of presenting clergymen to the churches built upon their domains.[1] By the laws of the Emperor Justinian, if any man builds a church and provides a maintenance for a clergyman, he and his heirs are to nominate the clergyman who is to serve therein.[2]

[1] Hooker, ii, pp. 125, 309.

[2] Bingham, ii, book iv, cap. ii, s. 19; book v, cap. vi, s. 5; book ix, cap. viii, s. 6.

No doubt originally the people chose their own ministers; this was their right. But this ancient right and original interest in the choice of their own pastors, the people have by orderly means given up; the appointment of bishops the English Nation gives to the Sovereign; the appointment of parochial clergymen to those who have endowed parish churches, in consideration of the endowments which they have provided for the clergy. When, therefore, a patron chooses a clergyman he is exercising a power which has been conferred upon him by the people.[1]

The law of our church, that he who builds and sufficiently endows a church shall have the right to name the clergyman who is to act therein and enjoy the endowment, is just and reasonable. For surely he who builds and endows a hospital, or school, or college, has a right to say who shall enjoy the revenue with which it is endowed; they who receive the benefits of the founder's liberality cannot claim the right to appoint the master or other officers of such college or hospital. If the clergy were, as in ancient times, supported by the voluntary offerings of their people, it would be reasonable that they should be appointed by them. But the people have yielded up the right of appointing their ministers to those who endowed their churches; it would be a flagrant act of injustice for the Nation, having agreed to receive from a man a church with an endowment, on condition that he shall have the right of

[1] Hooker, ii, p. 309.

appointing the clergyman, to deprive the patron of his right and not restore to him the endowment.

I may observe that, strictly speaking, the patron does not ordinarily appoint the clergyman to the church, which he or his ancestors have endowed; all that he does is to select out of the general body of the clergy, that is, out of those who, after having been examined and found fit, have been admitted into the ecclesiastical order by those who have authority to do so, one whom he presents to a person authorised by the Nation further to examine him; and if after such examination the clergyman is found unfit to be admitted to the living, he may be and occasionally is rejected.

It cannot be denied that there are some disadvantages attending our present system. Worthy clergymen sometimes remain for many years without any adequate reward for their labours; and sometimes patrons select, for large and important parishes, clergymen not adapted for such posts. It must be confessed that it is not creditable to the National church that men should remain, for twenty years or more, curates and incumbents of ill-endowed churches, whilst young men who have not served more than two or three years in the ministry are allowed to be appointed to valuable livings. The Nation may prevent these and similar scandals; and no one who desires the welfare of the National church would oppose legislation for such an object.

But on the whole our present system of patronage works

well, and has very substantial advantages. The large number of appointments in the hands of the laity enables them to exercise a powerful and wholesome influence over the clergy; the growth of anti-national feelings and obnoxious theological opinions is checked; the tendency amongst the clergy to develope into a caste, to regard themselves as members of a world-wide organization with its peculiar laws, and forget their national character, is counteracted; the clergy are bound by strong bonds to the Nation, and are strengthened in their resistance to the attraction to which they are exposed to enter the service of an independent mistress, who regards with jealousy all such rivals to her authority as National churches.

By our system of patronage, the laity are encouraged to build and endow churches, to the benefit of the Nation; able preachers are promoted, whilst learned clergymen are not neglected; the Sovereign, great officers of the Realm, universities, colleges, schools, commercial companies, civil corporations, lords and gentry, wealthy merchants and manufacturers, all are linked to, and interested in the welfare of the church, by the patronage which they possess.

If congregations were to appoint their pastors, scholarship would seldom be rewarded, for the one gift which is popularly appreciated is that of preaching. On the other hand, to give to the bishops the appointment of the clergy, would be seriously to diminish the influence of the laity

over the ecclesiastical order, as well as the independence of the clergy.

2.—In order to secure to the clergyman the authority which we consider it desirable that he should have over his parishioners, they have no power to punish him by censure, suspension, or dismissal. They sometimes have the power of appointing their pastor, but never of dismissing him. Nor is it seemly or expedient that when the Nation has placed in a parish a man who has been deemed fit to be the clergyman of that place, it should be in the power of the congregation or parishioners to dismiss him. The Nation has placed him; it is for the Nation, not for a fraction of it, to remove him.

The clergy exist for the benefit of the laity; they are in our church, as they should be in all churches, subordinate to the laity; and it is a question worthy of the serious consideration of Parliament whether this principle may not with advantage be carried farther, by giving to every congregation some control over the services, at least to this extent, that the clergyman cannot make important changes without the assent of the major part of his congregation. But it is wisely provided that the clergyman shall not be subject to his congregation. It would not be for the benefit of the laity at large, nor for the honour of the clergy, if a particular congregation could form themselves into a court, and call their pastor to account, censure, suspend, or dismiss him. Such a system encourages a carping, fault-

finding spirit, and gives the ill-disposed an opportunity of annoying the clergyman, and making him feel their enmity. Moreover, although the parishioners might be competent to decide whether their pastor had been guilty of some vice, they would be very incompetent to determine whether his teaching had been contrary to the doctrines of the church. And they would be further unfit to sit in judgment on their clergyman because, in the majority of instances, they would not possess that dispassionate state of mind essential to the administration of justice.

Thus, whilst we secure to the laity their rightful supremacy in the church, we avoid the evils of that system which makes the congregation the lord and master of him who is appointed to be their guide and teacher, from whose ignorance, partiality, or tyranny, he has no appeal. If the parishioners have cause of complaint against their clergyman; if he is negligent or immoral; if he teaches anything contrary to the doctrines of the National church; if there arise any matter of grievance between the pastor and people, the Nation has provided an able and impartial judge to determine their cause and end their strife.[1] They cannot complain immediately to the Sovereign, the supreme judge, but to some subordinate judge appointed to act for him.

Without doubt there is too much difficulty in removing

[1] Hooker, ii, pp. 340, 341.

or suspending clergymen who preach doctrines, and introduce practices, forbidden by our church, or who are notoriously negligent and vicious; and no reform is more needed in the National church than such a reform of the ecclesiastical courts as will enable the Sovereign and his ecclesiastical officers to correct and punish disobedient and criminous clergymen with more speed and at less cost.

CHAPTER VI.

BISHOPS—Alone ordain ministers—Inspect the clergy—Have coercive power—Objections to their titles, honours, and endowments considered—The National church condemns not churches because they have no bishops—Archbishops—Receive appeals from sentences of bishops—Are subject to the Sovereign.

IT will be seen from what has been said, that the Nation gives order that divine service shall be performed, and also prescribes the manner in which it shall be performed; the Sovereign is charged to see that it it so performed; the clergy perform it.

But it is not possible for the Sovereign to overlook the whole body of clergy, and see that they do as the Nation has commanded. It doth not suffice, as says Hooker, that the lord of a household appoint labourers what they should do, unless he set over them some chief workmen to see they do it; therefore it is needful that there should be some whose charge is to see that the ecclesiastical laws are kept by the clergy and people under them.[1] A superior order of clergymen, known as bishops, have, it is generally acknowledged, existed in the Christian church from very early times, whose principal duties were to ordain ministers, and

[1] Hooker, ii, p. 335.

to inspect or overlook the clergy and laity; this venerable order we have retained. Jerome, who is sometimes quoted as a witness against bishops, whom he admonishes not to forget themselves and think that the church has not power to take them away, as they exist by order and custom rather than by any ordinance of the Lord, says that in the Apostles' times, when factions grew in the church, it was decreed in the whole world that one should be chosen out of the presbyters and placed above the rest.[1] But whether bishops and presbyters were at first equal,[2] whether they differed in degree but not in order,[3] whether bishops were before presbyters, or presbyters before bishops, it is not material to determine, even if we had the materials for so doing. We maintain as the truth, that God has not instituted any particular form of church government never to be altered; we hold that the polity which prevailed in the Apostolic or any other age, was not intended to be perpetually and universally observed.[4] "God hath left to his church," says Whitgift, "authority to appoint both names and offices, as shall be for the same most convenient and profitable; the which authority the church hath also from the beginning used, as in appointing catechists, lectors, and such like."[5]

---

[1] Jewel, ii, p. 379; iii, p. 439. Hooker, ii, pp. 250—257.

[2] Hooker, ii, p. 291. Selden's Works, p. 2014.

[3] This is Lord King's opinion, p. 47

[4] Hooker, i, pp. 330, 331.

[5] Whitgift, ii, p. 116.

From early times the Christian church has ordinarily authorised bishops alone to ordain ministers;[1] possibly in the absence of the bishop, presbyters did occasionally, as some say, ordain;[2] but there are, so far as I know, only two ancient churches,—the Alexandrian Church and the Culdees,—which authorised presbyters to ordain. The custom of the church of Alexandria was altogether unique. When Charles I. asked Archbishop Usher whether he ever found in ancient times that presbyters alone ordained, he answered, "I can shew your Majesty more, even where presbyters alone successively ordained bishops," and he gave as an instance, the presbyters of Alexandria choosing and making their own bishops from the days of Mark till Heraclas and Dionysius.[3] Amongst the ancient Culdees also presbyters seem to have ordained; and it was partly on this account that the Scotch priests were forbidden to act in England, and were regarded with such ill-feeling by the clergy under Roman influence.[4]

The ancient custom of the Christian church in giving to bishops alone the power of admitting men to the ministry is convenient, and our church has done well in not departing from it. By placing the power of ordination in the hands of a few men, selected by the Nation on account of

[1] Hooker, ii, pp. 307, 308. [2] King, p. 55.

[3] Baxter's Life and Times, part ii, p. 206. Bingham, book ii, c. xi, s. 2. Hippolytus, p. 134. Coptic Canons, 34, 68.

[4] Bede, Lib. iii, cap. 5. Rapin, i, p. 66. Jamieson's Hist. of the Culdees, pp. 97, 98, 100, 226, 227, 233.

their superior judgment and learning, there is more likelihood that fit persons will be admitted to the sacred ministry, than if all the clergy had the power of ordaining, for where responsibility is shared by many, the sense of it is decreased. Our bishops use the power of ordination discreetly; they rarely exercise it carelessly or capriciously.

The Church of England following ancient custom, in order to honour prelates and give to them offices of power above other ministers, authorises them alone to confirm.[1] Anciently, as Hooker says, "in some places the custom was, that presbyters might also confirm in the absence of a bishop, albeit, for the most part, none but only bishops were thereof the allowed ministers."[2]

The bishops are ordinarily employed by the Sovereign, the supreme overseer of the National church, to overlook the clergy, and authority is committed to them by the Realm to correct and punish such as be unquiet, disobedient, and criminous within their dioceses.[3] But there are some of the clergy over whom no archbishop or bishop is allowed to exercise jurisdiction; these are retained by the Queen, under her own immediate inspection; it is a privilege enjoyed from ancient times that they are subject only to the Sovereign. "The King is ordinary of his free chapels," says Fitzherbert.[4]

---

[1] Hooker, i, p. 686. [2] Hooker, ii, p. 260. King, pp. 22, 221—229.
[3] Service for the Consecration of Bishops.
[4] Coke's Reports, iii, pp. 37, 38.

The bishops, when exercising jurisdiction, are the magistrates, officers, and ministers of the Sovereign.[1] The origin or source of their jurisdiction is the Nation or Realm of England; but it comes to them through the Sovereign, who is, as it were, the reservoir whence flows all ecclesiastical jurisdiction.[2] A man may be a bishop, and yet have no jurisdiction; and a man may not be a bishop and yet have ecclesiastical jurisdiction. "A bishop," says Selden, "as a bishop, had never any ecclesiastical jurisdiction . . . he might exercise jurisdiction before he was consecrated."[3] So Lord Hale says,—"Every bishop by his election and confirmation, even before consecration, had ecclesiastical jurisdiction annexed to his office, as judex ordinarius within his diocese."[4]

Great care is taken in our church that justice be rendered to all members of it; accordingly it is wisely provided that every bishop shall appoint an officer, known as his chancellor, to act as judge in all ecclesiastical causes arising within the diocese. These chancellors are frequently laymen specially trained for the work of a judge, "learned in the civil and ecclesiastical laws."[5] Before the Reformation the clergy, especially the bishops, were noted for this kind of learning; many of the judges were, as Lord Coke,

---

[1] Coke's Reports, iii, p. 39. Hale's Analysis of the Law, p. 21.
[2] Blackstone, i, p. 266. [3] Selden's Works, iii, p. 2011.
[4] Hale's Hist. of Common Law, p. 27.
[5] Blackstone, (Stephen's), iii, pp. 14, 15, 440, 441. Canon cxxvii.

Selden, and others tell us, of the clergy, and displayed great ability and integrity.[1] But the clergy no longer receive an education to qualify them for the discharge of judicial functions; and generally speaking, they are very unfit men to sit as judges in ecclesiastical causes, especially in controversies of faith. In any dispute concerning the teaching of a clergyman, the main business of the judge is an examination of documents; the accused must be tried by written laws, not by the opinions of divines of this or any other age; for such work clergymen are generally unfit.

There is another reason for requiring the bishops to employ a qualified person to hear ecclesiastical causes. The feelings of the bishop are frequently interested in the cause, and therefore it is not proper that he should even sit with his chancellor,[2] but should leave it to be tried by one who, by his legal knowledge and habits, is most likely to give the calm and dispassionate hearing required to meet the ends of justice. The exercise of judicial functions by ecclesiastics alone is not favourable to the existence of much religious freedom in a church; and therefore they who desire the comprehensive character of the National church to be preserved, will never consent to ecclesiastical causes being tried by bishops or clergymen.

Here must be noticed an important difference between

---

[1] Fortescue de laudibus legum Angliæ, p. 4, note. Coke's Inst., part ii, cap. 9, Merton; West. Primer, cap. 51. Selden's Works, iii, p. 2013.

[2] Selden's Works, iii, p. 2017.

the effects of sentences pronounced by the officers of the National church, and those pronounced by the officers of other churches or religious societies in England. This Realm gives to the bishops of English dioceses power to enforce the execution of their own sentences. So Lord Hale says,—"The sentences of the ecclesiastical courts, touching some matters, do introduce a real effect, without any other execution. So a sentence of deprivation from an ecclesiastical benefice does, by virtue of the very sentence, without any other coercion or execution, introduce a full determination of the interest of the person deprived."[1] The officers of the National church are the Queen's judges, they sit in the Queen's courts, they enforce the Queen's laws; in short, they are officers of the Nation enforcing the execution of the Nation's laws concerning the service of God.[2] But this Realm commits no such authority to the officers of other churches over their members; they have no coercive power; they are not officers of the Nation; and must apply to the Sovereign's courts to give effect to any sentence which may have been pronounced by them concerning the actions or property of a member. For this reason, the Sovereign is supreme over all churches and sects; and to this extent the Queen of England is as supreme over Independents, Wesleyans, or any other religious body in England, as over the National church.

[1] Hale's Hist. of Common Law, p. 31.

[2] Coke's Reports, iii, pp. 38, 50.

Our reformers have been severely blamed by some Protestants because, with their customary caution and reverence for antiquity, they retained the venerable order of bishops, continuing to them much of their ancient authority and honour. If all that has been said against bishops be true, that in past times they appropriated to themselves power, that they have abused it, domineering over clergy and laity, it does not prove the necessity of removing bishops, or that they are unprofitable to the church.[1] Kings have gained their pre-eminence by violence and craft; our Sovereigns have in past times oppressed their subjects, yet we have not abolished kingly government, but have provided that oppression shall not again be practiced. So have we dealt with bishops; however or whenever they originated, they have been in the Christian church from ancient times, and in the Church of England since its foundation; they have done great services to this Church and Realm; they are convenient and useful; they do best stand, as says Selden, with our monarchical constitution;[2] they cannot oppress any, and show no disposition to do so.[3] If any bishop issues an order which is contrary to the laws of this Church and Realm, it has no force, and he can punish no man for disobeying it. Nay, so jealously are the clergy protected, that if a bishop gives a command

[1] Jewel, iii, p. 439. Hooker, ii, pp. 300, 301.
[2] Selden's Works, iii, p. 2015.
[3] Hooker, ii, p. 304.

against which there is no law, but which he is not authorised by law to impose, he cannot compel any man to obey, or punish any for disobeying it. Our bishops cannot make laws, they can only administer them.

Some are offended with our prelates, because they are Privy Councillors, sit in Parliament, are called lords spiritual of the Realm. Why may not ecclesiastics give advice, when asked, to the rulers of a Nation? If a lord may be a clergyman and expound the Scriptures, why may not a clergyman be a lord and assist in making laws?[1] Is the High Court of Parliament an unholy place, are the men who assemble there profane, are their deliberations for the promotion of folly and vice? If so, then it is not fit that any Christian should be seen there, whether he call himself a clergyman or layman. Parliament is an assembly of the wisest of our Nation, gathered together to advance freedom, truth, justice, and righteousness; and bishops can serve God in the council chamber and Parliament, as well as in temples and ecclesiastical ceremonies. The clergy are not a sacerdotal caste, an order of men forbidden to take part in all except what are called ecclesiastical matters; when men become clergymen they do not cease to be citizens. To repeal cruel and oppressive laws, to advance civil and religious freedom, to raise the degraded, to enlighten the ignorant, to remove burdens, to take away causes of violence and disorder, to draw together races and

[1] Whitgift, i, pp. 153, 154.

peoples and teach them to live in brotherly charity, to open the harvest fields of the world to our people, to spread contentment and happiness, to enable the industrious to live in comfortable homes, to increase knowledge, to promote quietness, love, and peace amongst nations,—this is work fit for ecclesiastics as well as laymen.

As long as Parliament makes laws concerning the service of God, it surely is reasonable and proper that some of the clergy should be present. So thought our forefathers, for Lord Hale holds that the bishops sit in Parliament by usage and custom, which probably arose out of the evident propriety of having their assistance in legislating for Church and State.[1] To remove the bishops from the House of Lords would countenance the sacerdotal doctrine, and give a powerful impulse to the efforts of those who desire to erect a separate and independent legislature for the church, composed wholly or to a great extent of ecclesiastics.

The revenues of our bishops offend some. But when we consider the position assigned to our prelates, and what is expected from them, their present incomes will not appear too great. They have to mingle with the highest and wealthiest of a wealthy Nation, to exercise hospitality, to aid in charitable works in their dioceses; it is but reasonable and seemly that they should have sufficient incomes to enable them to do all this. Because the Apostles were poor

[1] Coke's Institutes, note 217.

is no reason why our bishops should be so; the customs of the Apostolic times are not binding on us. When the laity are willing to be like the laity who lived under the Apostles, then the clergy may be reduced to the poverty of their predecessors in Apostolic times. If it is good for the clergy to observe the poverty of those times, it is good also for the laity. But it has been noticed that those who are most open-mouthed against the wealth of prelates, have no liking for the poverty of the Apostles, and are ready to swallow an episcopal manor, which, if it satisfied their avarice, closed their mouths and silenced their clamour.[1]

Another objection, of a graver character than the preceding, is brought against the National church concerning bishops. We are accused of arrogantly and presumptuously unchurching those churches which have not bishops, accounting their ministers to be mere laymen, because they have not been ordained by bishops. In no statute of this Realm, in no article or formulary of our church, is it declared that churches which have not bishops are not churches, or that the men who minister in them are not ministers, but mere laymen. We count ourselves happy in having been able to reform our church without removing the ancient order of bishops, but we do not presume to condemn the Scotch and other reformed churches, or censure them for acting differently.[2] We think it convenient and good to

[1] Hooker, ii, pp. 347, 363.

[2] Hooker, ii, p. 308.

adhere to the ancient custom of the Christian church, which was ordinarily to use bishops in conferring orders; but we do not insinuate that other churches may not with good reason order differently.[1] We make rules for ourselves, not for others; and our rules we defend as fit, convenient, and good for our church and commonwealth; but, to use Hooker's words, we do not peremptorily establish them under a high commanding form as though they were statutes from heaven, everlastingly and universally to be observed; that is far from the Church of England.[2]

Not only does our church no where unchurch the Scotch and other churches, because they have no bishops, but it is most plainly implied in our articles of faith that such societies are true churches, and that the men who are ordained according to their rules are lawful ministers, not only of those churches but of the Christian church.[3] Those who framed our articles and homilies, and the reformers generally, always speak of non-episcopal reformed churches as true churches; so does every eminent divine of our church from Cranmer to Hooker;[4] for more than half a century after the Reformation, between our clergy and those of the foreign reformed churches a close and affectionate intercourse was

---

[1] Hooker, ii, p. 307.

[2] Of ceremonies, in Prayer Book. Hooker, i, preface p. 110. Puller's Moderation of the Church.

[3] Art. xix; and compare with it the definition of a church in the Catechism of Edward VI. Liturgies of Edward VI, p. 513. Homilies, p. 413.

[4] Hooker, i, p. 347; ii, p. 308.

held; in the reign of Elizabeth the clergy assembled in convocation recognized them, and again in the reign of James I; the canon directing the clergy to pray for the Church of Scotland is still in force; Edward VI, Elizabeth, James I. and Charles I, until Laud became primate, regarded them as true churches; so did the first four Protestant Archbishops of Canterbury,—Cranmer, Parker, Grindal, Whitgift; so did Jewel, Horn, Cooper, Bridges, Saravia, Hall, Carleton, Davenant, Ward, Morton, Crakanthorp, White, Usher, Mason, Cosin, Compton, Archbishops Sancroft, Sharp, Tenison, Wake, Secker. The first person in our church who put forth the doctrine that there could be no true church without bishops was, probably, either Bancroft or Laud. When Laud, in 1604, broached this opinion, he was publicly rebuked at Oxford as "a seditious person;" and Lord Bacon speaks of it as a novelty. He says,—"Some indiscreet persons have been bold in open preaching to use dishonourable and derogatory speech and censure of the churches abroad; and that so far, as some of our men, as I have heard, ordained in foreign parts, have been pronounced to be no lawful ministers."[1] Lords Falkland and Clarendon equally condemned Laud's teaching and contemptuous treatment of non-episcopal churches.

There is one fact sufficient to put beyond all doubt the doctrine of this Church and Realm concerning foreign

[1] Advertisement touching controversies, &c., Works, ii, p. 514.

reformed churches. Until the Restoration men ordained in those churches held benefices in this country, and did so by law, as Lord Clarendon, Bishops Cosin, Burnet, and Fleetwood testify.[1] The last Act of Uniformity (1662), however, enacts that persons not episcopally ordained shall be incapable of ecclesiastical preferment. This was a new feature in the Church of England, says Lord Clarendon, for there had been many holding benefices in the most flourishing time of the church, who were ordained in France and Holland. It was, however, expressly declared, even by those who were in favour of this requirement in the Act, that no judgment was intended to be pronounced upon foreign churches and their ministers, so that the doctrine of our church remained unchanged.[2] By the Act of Union the Church of Scotland is recognised as a true church; and the Sovereign is required to take an oath inviolably to maintain the same. In the debate on the Union the Archbishop of Canterbury stated that "he believed the Church of Scotland to be as true a Protestant church as the Church of England, though he could not say as perfect."

From all this it is clear that the Church and Realm of England has not presumed to condemn other churches because they have not bishops.

---

[1] 13 Elizabeth, c. 12. Travers's Supplication to the Council.

[2] Two Hundred Years Ago, p. 63.

I now proceed to consider to whom the Sovereign has committed the inspection of the bishops.

The tendency of Christianity is to fellowship and unity, through the consciousness abiding in Christians, that they all belong to one body. This catholic spirit of Christianity led, in early times, to churches or their chief pastors meeting for common deliberations; and upon such occasions it was needful that one bishop should be superior to the rest.[1] It was natural that a certain respect and deference should be paid by the bishops to the bishop of the civil metropolis. This, Bingham conjectures, advanced gradually into a custom, and afterward was made into a canon by the council of Nice.[2] The bishop of the civil metropolis was at first known as the chief bishop or head of the province; and afterwards as the archbishop, metropolitan, or primate.[3] Thus archbishops, says Barrow, "were introduced merely by human ordinance, and established by law or custom on prudential accounts."[4]

According to the Cyprian theory of episcopacy, a bishop "cannot be judged by another, nor yet himself judge another."[5] The fathers, says Jeremy Taylor, have expressly declared themselves, that one bishop is not superior to another, and ought not to judge another, or force

---

[1] Neander, i, pp. 252, 253, 280, 281. Barrow, vii, p. 304.
[2] Bingham, book ii, cap. xvi, s. 2.
[3] Bingham, book ii, cap. xvi, s. 5. [4] Barrow, vii, pp. 263, 302.
[5] Cyprian to the Council of Carthage.

another to obedience.[1] "At this time," says Giesler, referring to the second and third centuries, "great stress was laid on the fact that all bishops were perfectly alike in dignity and power; and that each in his own diocese was answerable only to God for his conduct."[2] Each bishop was a prince in his own church, possessing a free, absolute, independent authority, subject to none, controlled by none on earth, "supreme in spirituals and in all power," immediately under the invisible Head of the catholic church.[3]

But the Church and Realm of England sanctions none of these irrational opinions. As the jurisdiction of our bishops is from the Realm of England, so they are accountable for the manner in which they exercise it, not immediately to the head of the Nation, but to the archbishop whom the Sovereign has placed over them. Thus no man with us who is oppressed by his own particular bishop or his officer is allowed to be destitute of a remedy, but may appeal to the archbishop of the province, or to his court.[4]

From Anglo-Saxon times there have been two archbishops in the Church of England, one at Canterbury, the other at York; they have the inspection of the bishops and other clergy in their respective provinces, or, as the law expresses it, the power to visit them; but whether an

---

[1] Taylor, x, p. 181.

[2] Giesler, i, p. 263.

[3] Taylor, x, p. 181. Barrow, vii, pp. 285—289, 302, 367, 368, 408.

[4] Hooker, ii, pp. 275, 279.

archbishop can deprive or depose a bishop is disputed.[1] Before the Reformation our archbishops owned no superior in ecclesiastical causes except the Bishop of Rome, now they are subject to the English Nation, represented by its head, the Sovereign.

---

[1] Whitgift says, neither the archbishop, nor all the bishops in the province, may deprive any bishop, without the consent of the Prince; ii, p. 371. Johnson's Vade Mecum. Blackstone, iii, p. 11.

CHAPTER VII.

Church property—Its object—The persons to be benefited by it—Under control of Parliament—Endowments of public and private origin.

AS in all discussions concerning the National church, ecclesiastical or church property occupies a very prominent place, a few observations on its nature are required.

Ecclesiastical or church property is property reserved or held for the maintenance of men to perform divine services, according to the orders of the Nation, for the benefit or profit of the people of this Realm. An ancient statute, speaking of monasteries and religious houses, says—They were founded to the honour and glory of God, and the advancement of the holy church, by the King and his progenitors, by the nobles of England and their ancestors; and lands were given to them, to the intent that religious and able men might be maintained, who should devote themselves to doing service to God, keeping sick and feeble men, practicing hospitality, almsgiving, and other charitable deeds.[1] And another old statute says,—Bishoprics and

[1] Stat., 35 Edward I.

other promotions spiritual have been founded by the Kings and nobles of this Realm, that the said spiritual persons might exercise hospitality, perform divine services, teach and preach God's laws to the profit of the people of this Realm.[1] "What is consecrated," says Selden, "is given to some particular man, to do God service, not given to God, but given to man to serve God."[2]

To perform divine services, or do God service, had amongst our forefathers, a larger meaning than we ordinarily give to these expressions. "Divine service," says Lord Coke, "is two-fold, either spirituall, as prayers to God; or temporall, as distribution of almes to poore people, for what is done for God's sake to the poore, is done to God Himselfe."[3]

The persons to be profited by church property are the people of this Realm, not the clergy who exist only for the benefit of the laity. In order that the people may receive the full benefit of this property, learned, able, and religious men are maintained at the fountains of learning,—the universities,—and distributed throughout the country; all of whom, whether professors at the universities or parochial clergymen, are labourers in the same field, engaged according to the exalted idea of our ancient laws in doing God

[1] Act concerning deprivations of the Bishops of Salisbury and Worcester. Burnet's Coll., i, p. 178.

[2] Selden's Works, p. 2023.

[3] Coke's Institutes, 95 *a*, 96 *b*.

service.[1] And surely it was a noble idea to plant in every parish throughout the land a learned and religious man, to provide for him an honourable maintenance, that he might, in the words of an old statute, "inform the people in the law of God, keep hospitality, give alms, and do other works of charity," be gentle and merciful to poor and needy people, and to all strangers destitute of help; set forward, by example and teaching, quietness, love, and peace among all men, that the people of this Realm may live in the faith and fear of God, in dutiful allegiance to the Queen, in brotherly love and Christian charity one towards another. Such are the high, unsectarian purposes for which the Nation maintains a clergy.

Church property is, and was long before the Reformation, under the supervision of the Nation, who, through their representatives in Parliament, control and direct its distribution, as well as determine the nature of the services to be performed by those who are maintained by it. The Nation, through its church property, exercises a powerful and wholesome influence over the clergy, and is able to provide an honourable and competent maintenance for learned men who may devote themselves to the production of standard works on theology and other subjects, as well as to the promotion of the interests of the Nation, rather than to those of a particular church or sect. The works of

[1] Coleridge on Constitution of Church and State, pp. 56, 57.

Hooker, Taylor, Barrow, and Butler, are contributions to the literature of the world.

If church property were under the control of a body of men independent of the Nation, these undesirable results would follow,—the Nation would lose its present means of supporting and rewarding learned men, church property would probably fall more or less under clerical control, a transfer of power over church affairs would thus take place from the laity to the clergy, and lastly, as the most active members of a sect are frequently the most narrow-minded, it would be devoted to sectarian interests.

Although church property is National or public property, Parliament being as it were the trustees, and the Nation the persons to be benefited by it, it does not follow that Parliament may devote it to other purposes than those for which it was given. Parliament has, I think, no moral right to apply endowments provided by private persons for the support of the ministers of religion, to other purposes. Proposals to do so, appealing merely to the meaner passions of men, and not resting upon any urgent necessity, are indefensible. It is indeed sometimes said, in justification of these proposals, that church property was taken from the Roman Catholic church at the Reformation by Parliament and given to the Church of England, and therefore may be taken from the Church of England and applied to other purposes than the performance of divine service. Now if church property had been so taken from one church

and given to another, it might justify Parliament taking it from the latter church and restoring it to the former, or giving it to another, but not devoting it to purposes altogether different from those for which it was originally given. But there was no such transfer of church property at the Reformation; it never belonged to the Roman Catholic church as a society or corporation distinct from the English Nation, and therefore could not be taken from it. And in like manner no property was given to the Church of England as a society or corporation apart from the commonwealth. The Nation did not take property from one church and give it to another, but simply changed the nature or kind of the divine services to be performed by the parochial clergy, who with very few exceptions, remained in undisturbed possession of their benefices. Before the Reformation, the clergy made orisons, prayers, masses, and other divine services in the Latin language; but in the reign of Edward VI they were commanded by the Nation to perform divine service according to the Book of Common Prayer.[1] The clergy are bound to render service for the endowments which they enjoy; the service is divine; the nature of the divine service and kind of prayers which they are to offer have been altered more than once since Anglo-Saxon times, as in the reigns of Edward VI, Mary, Elizabeth, James I, in 1644 by an Ordinance of Parliament, in the reign of

[1] Lyttleton, Lib. ii, cap. vi. Coke's Inst., ss. 135, 95 *b*. Blackstone, i, pp. 231, 232.

Charles II; but divine or spiritual services of some kind have always been required, and so long as Parliament requires those who hold church property to perform divine services, so long does Parliament devote it to the purposes for which it was given.

But that portion of church property, which has been reserved or given by the Nation itself for the support of a clergy, being of public not of private origin, may be, and ought to be, devoted by Parliament to other purposes, if the Nation is of opinion that it can be made more useful by so doing; whatever the Nation has reserved or given, the Nation may take away. If the Nation think it unnecessary or inexpedient to continue such officers as the Archbishop of Canterbury, the Dean of St. Paul's, the Rector of Marylebone, it may resolve to appoint no successors to them, and upon the death or resignation of the present incumbents, the property assigned for their support may be applied to other National purposes. Private individuals might agree to give to certain persons the titles of Archbishop of Canterbury, Dean of St. Paul's, Rector of Marylebone, but the persons so appointed are not officers of the Nation, under its control, obeying its orders in things spiritual; they are in the same position as the ministers of any other church or religious society in the Realm, and therefore they can have no claim to property given by the Nation itself for the support of a National clergy.

It is frequently objected to the National church that it is

not equitable, that it is contrary to public justice and even-handed dealing, for the Nation or State to support the clergy of one communion, whilst the clergy of other communions in the country do not enjoy such support.

The objection rests upon the erroneous conception of the National church already mentioned;[1] they who urge it evidently consider that the State,—which they speak of in a strange, contemptuous manner, as if it were some foreign power, whose interests are opposed to those of the people of England, and towards whom it entertains no friendly feelings,—has selected one out of many religious societies which exist in this country for State support and patronage. From ancient times the Nation has supported a body of men, whose office has been to perform divine services for the benefit of the people of this Realm; it gives to these men orders and directions concerning the performance of these spiritual services, just as it gives directions to its other servants,—its judges, officers in the army and navy, &c.; and it maintains them by a property, one part of which has been reserved by the Nation itself, and the other part has been given by private persons for the express purpose of being devoted to the maintenance of men to perform divine services. In acting thus, the Nation wrongs no man, does nothing contrary to equity, to public justice, or even-handed dealing. The Wesleyan Missionary Society

[1] Vide sup., p. 93.

supports and recognises men labouring in foreign lands for the conversion of the heathen, but it does not slight or wrong other men who may be labouring with equal zeal and success in those lands by not supporting them. The Roman Catholic Archbishop of Westminster is not wronged by not being recognised and supported by the English Nation in the same manner as the Archbishop of Canterbury. The former denies that the English Nation has any authority over him in things spiritual, and holds that in one of the most important departments of human life a foreign ecclesiastic is his supreme ruler; the latter obeys the Queen and Parliament of England in things ecclesiastical as well as temporal.

It is not because the Nation is indifferent to the services of nonconformist ministers, much less animated by an unfriendly feeling towards them, that they are not supported by the Nation, but simply because they obey not the Nation in things pertaining to religion. We do not undervalue their labours; they are rendering, and have rendered, great services to our Nation; and those who regard religious liberty as one of our chief blessings, must think that they can never be too grateful to the men who in former times endured persecution, because they could not with safe conscience obey the laws and orders ecclesiastical of the Realm.

To say that Parliament is recognising and supporting the clergy against the will or wishes of the people of

England, is to say that the Nation is tyrannising over itself, which will not be easily believed.

Some persons seem to consider it disgraceful for a minister to be paid by the State. Why it should be disgraceful for a clergyman but not for a layman, for a bishop, or rector, or vicar, but not for a chaplain in the army or navy, to be paid by the Nation; or why a minister of Religion is to be regarded as a man who is in bondage if he receives his stipend from the Nation, but not if he receives it from the trustees of a church or chapel, or the stewards of a district, is difficult to discover.

CONCLUSION.

THE National church which we have been considering is the expression of the belief of a free Nation that its true ruler is the Prince of the kings of the earth, whom it desires to serve and glorify; millions of free intelligent men, under the National head, do homage to Him. As He whom we serve is everywhere present, so He requires to be served in all places and at all times, in the Council chamber and Parliament as well as in cathedrals and chapels. The advancement of His honour and glory is not left to priests, or ministers, or sects, but is the business of the Nation, all men in their offices, degrees, and states being called to take part in exalting the Nation, so that, if it be possible, all the people may be righteous, and violence no more heard in the land, wasting nor destruction within its borders.

But there are many who readily allow that all men are called to this high service, yet approve not of a National church. Let the rule of charity be observed by them and us; let not conformists reproach nonconformists as schismatics, factious, disloyal, because they believe that they ought not

to obey the orders of the Queen and Parliament in things pertaining to religion; and let nonconformists cease from speaking disdainfully of conformists, because they believe that they may obey such orders. In what we do we condemn no man, and no other nations; for we think it right and convenient that every man and every country should observe such rules, forms, and ceremonies as they think best. For ourselves we claim that liberty which others enjoy, liberty to obey those whom we think most competent to make for us ecclesiastical laws. This liberty is, we think, our freedom; and therefore we desire to remain as we are, subject in things spiritual to the Queen and Parliament of England. But we know that the controversy between us and most nonconformists is not concerning the fundamentals of religion, and therefore our desire is to live with "our brethren, the Protestant dissenters," in unity and concord, to unite with "all reformed churches both at home and abroad," in promoting peace and happiness, truth and justice, religion and piety.

Whilst it will never come to pass that the Deity will be left without worshippers in this world, there may come a time when the Nation may find it necessary or expedient to abandon the present practice of making laws for the service of God. Far be it from me to insinuate that this would be a National confession either of unbelief in Him, or indifference to the promotion of His honour and glory. But it would be the triumph of sectarianism, the humbling

confession that after nineteen Christian centuries, Englishmen could not agree concerning the manner in which God is to be worshipped; and the National protest against sacerdotalism would be gone. In place of a National church inculcating unity and concord, holding men together by the strong bond of a common worship, but allowing great liberty of prophesying, there would be at least two bodies, both claiming to be successors to a church which can have no successor; instead of comprehensiveness there would be exclusiveness, instead of lay supremacy ecclesiastical domination.

Yet if it ever be thought that the National church has done its work, and must pass away, it will not have existed in vain. It will have done no mean work for this Realm, and not for this Realm only, but for all Christian lands. It will afford a bright example of a comprehensive church, founded on free and rational principles, which are capable of universal application, so long as the Christian church endures. It will be an enduring argument against exclusiveness, and a perpetual rebuke to sectarianism, of which men may well be ashamed, when they remember that there was once a church in which Hooker and Andrewes, Lord Bacon and George Herbert, Chillingworth and Jeremy Taylor, Falkland and Selden, Hale and Clarendon, Lord William Russell and Robert Nelson, Tillotson and Ken, Locke and Boyle, Samuel Johnson and William Cowper, could hold communion. And from it men will learn that

laymen can reform a corrupt church and govern a reformed one, that they can abolish the supremacy of a sacerdotal caste without abasing the clergy, that whilst retaining in their own hands the supreme control over the church, they can preserve to the clergy the honour due to their office.

RICHARD LOWE, GENERAL PRINTER, MARKET PLACE, NEWPORT, SALOP.